

A
M E M O R I A L

Humbly Presented to the Right Honorable

The Lord Chief Justice

OF THE

K I N G S - B E N C H

In Behalf of the

(7)

H O S P I T A L L E R

A N D H I S

F R I E N D S.

L O N D O N,

Printed in the Year, 1690.

A

MEMORIAL

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The Lord Chief Justice

OF THE

KING'S-BENCH

In Behalf of the

HOSPITALER

AND HIS

RELIEVED

1072.15

LONDON

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To the Right Honorable
Sir J O H N H O L T, Knight,
Lord Chief Justice
OF THE
K I N G ' S - B E N C H.

My Lord,

THis Discourse which was intended to be spoken to your Lordship in our common Defence, containing a full and clear Representation of our Case, I do most humbly beseech your Lordship, of your love to Justice, to accept and consider, at your leisure, on our behalfs. I had not been so hardy to take the part of an Advocate upon me, but that I knew nothing when I began to write this, and till I had well nigh finish'd it, of the other Side's appearing by their Counsel against me, and then it was not for me to pretend to enter the Lists with Men so used to Pleading, and so particularly Eminent and Learned in their Profession as they are: however having written it at first to satisfy my self and others as well as I could in the true Merits of the Cause we were engaged in; I have presumed so far at this juncture, wherein our Affairs are hastening to their

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Crisis, as to publish and expose it to the open view of the World, because it may be there may be some things in it, which even the ablest Practiser of the Long-Robe, distracted by so many Avocations, and full of other Thoughts and Business, might have omitted.

These Two things I humbly conceive to be very plain in it, First, That the Lord Mayor and Aldermen of the City of London cannot restore the Ejected, whether Governors or Officers, without as plain and manifest a Dispensing Power, as that which even the late King assumed to himself; for if the Court of Aldermen may put out those at pleasure, whom the King by virtue of a Power given him by an express Act of Parliament hath put into their respective Places, and if they may restore those whom he by the same Authority hath legally ejected, what is this but at pleasure to dispense with the Act it self? and to render such a Provision in the King's behalf, as vain and fruitless as if it had never been made? What is it else but for the Court of Aldermen to challenge that exorbitant Privilege, as it's due, which is deny'd and barr'd by an express Act of Parliament even to Kings themselves, and all this for Causes so just and weighty, from the foresight of the Mischiefs which such a Power may produce, and from the Experience of those which it actually hath, that they carry their own Sanction included in themselves, though no Act of Parliament to forbid or foreclose the Exercise of a Power so Arbitrary and Boundless in it self, and in its Consequences so pernicious and destructive had ever been enacted? And whether a Court comparatively Inferior, however otherwise deserving a due Reverence and Respect from us, ought to be allowed to trample upon the just Authority of Kings, and to disappoint the true meaning and intention of the High Court of Parliament it self by any Order of theirs, is a thing that may deserve your Lordship's Con-

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Consideration, and I doubt not, my Lord, but you will certainly consider it to our advantage, and for the restraining of a dangerous Power, which may dispense with the whole Statute-Book, or with what part or parcel of it pleaseth, as well as with any one Law.

I know there are many very worthy Gentlemen in the Court of Aldermen, that abhor the very thoughts of arrogating and assuming thus much to themselves, many that are well satisfied with the necessary Regulations made in the Reign of King Charles II. in which they themselves were instrumental, being therewith commissioned under the Broad Seal of England, and that it is only those who are in truth no Aldermen, that would be more than such, if they knew how.

The other thing, which to the best of my understanding, is every whit as clear as the former is, that if the Mayor or Court of Aldermen's Power (though it had been a legal Court of Aldermen, which the Act of Parliament hath declared at that time it was not) may over-rule the King's in our Case; then I cannot see that the Hospitals are his in any sense, his Power and Prerogative in them will be utterly destroyed, and he cannot so much as send a sick Seaman or Soldier into any of these Houses, without first asking leave of the City, which although, it may be, (especially in the present Circumstances) they would not deny him, yet it is infinitely beneath the Majesty of Princes to acknowledge or submit to a precarious Dependence, wherever it can be proved they have a Right, even a private Person where he can make out his Title, would disdain to accept of his own upon these terms, by holding it only durante beneplacito, by an uncertain, capricious and revocable Grant from another, and therefore it concerns all that love the Monarchy of England, and much more all those that are under more particular Obligations to maintain and assert it, to see that its Honor and just

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just Prerogative do not suffer in so important a Branch as this which concerns the Royal Hospitals, is, through the Mistakes and Encroachments of a few Men, that aim at a Power, which they can never prove in the present Circumstances to be their due.

It is not their due in our Circumstances, who were put in by the King, by whom the very Persons whom they will needs restore were ejected, nor in theirs neither if it be true, that a certain Gentleman who takes much upon him, neither is nor ever was, since the avoidance of the Charter, a legal Magistrate of this Renowned City, and that several Assessors of the Court of Aldermen, have as little right to the Bench, as he hath to the Chair, a Controversie, which in my small Opinion, the Parliament hath determined already, or if they have not yet done it so clearly as might be wished, yet in a short time it may be hoped they will.

In the mean while I cannot forbear saying, That I never saw less good Manners, less Decency, or less Modesty in the Management of a Cause, than I have done in this, our Adversaries have confess'd by an obstinate and stubborn silence after so many fair Challenges and repeated Provocations, notwithstanding all the Mercenary Pens that are always at their Service, that they have nothing to say for themselves, and that both in Law and Equity it is a very plain Case against them: but yet still they have a Confidence, not in their Cause, which they know to be very bad, but in their Power, which they persuade themselves is greater than the Power of Truth, that is proof against all this, they are resolv'd upon their own Conclusion, and leave our naked Premises to shift for themselves. Poor Premises! so deserv'd and so friendless, that even Hospitals refuse them Entertainment.

Nay, not only so, but when the Lords of the Council have been pleas'd to honor this little Cause of ours, little in its self,
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but in its Consequences great, and worthy that Sacred and Majestick Board, with their sublime and weighty Contemplation, when they have referred the further Examination of it by an express Order made in that behalf to your Lordship's known Wisdom and untainted Justice, the result of which Enquiry is to be reported back again to them to put a final period and issue to it, which a Man would think in Reason should have put a stop to any further Proceedings on their part, while the Affair was depending, out of a dutiful Reverence and Regard to that awful Judgment and Decision that was expected, yet even now do they go on, as they have always done, with taking it for granted that they are in the right, even now doth Hughes, in contempt of every thing that is Great or Good, in Desfiance to all the most solemn Orders of Suspension that can be made, and in Despite of his own recoiling and upbraiding Book, written against Phrinalities and Non-Residence, before it happen'd to be his own Case, receive his quarterly Payments for doing nothing, while I have nothing but my labor for my pains; and while I have not wherewithal to defend their Majesties Prerogative, otherwise than with my Pen, which was a Reason of necessity why I should plead my own Cause, and why I intended to do it in the following Remonstrance; while I am intangled in Debt, and run into Extremities by a great deal of barbarous and unchristian Usage: My Adversaries have the King's and the Hospital Revenues at their Service, to overthrow his Title and assert their own. So deeply rooted even in some that call themselves Church men is the love of a Commonwealth Interest, and a Dissenting Party; so great is the Merit of a Sermon dedicated to his Excellency the Lord Cromwell, in defence of the worst Action that ever he did or could do by a Trooper formerly under his Command, by one that first fought against Monarchy with his Sword, then writ and preach'd

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preach'd and printed against it too, and was not content with Treason against the King without spitting his Venom against the Saint and the Martyr.

My Lord, If Ludlow were so severely and yet justly treated by the Resentment of the House of Commons; and if his Majesty in Compliance with their humble Remonstrance and Petition was pleased to issue out his Royal Proclamation for his Apprehension for High Treason wherever he could be found above forty Years after that Regicide was committed; Ludlow, that had but one Hand, one Finger in that fearful Crime; Ludlow, that had but one Voice in that execrable Doom, past by the vilest of Traytors, and of Men upon the best of Kings. If he were forced to seek his Safety in his Flight; if he were necessitated to compound for a Life scarce worth the saving, after having lived so much beyond the common periods of human Life, by a silent and voluntary Exile to Climes far distant from his native Country, to mountainous and barren Places, where Nakedness and Thirst, and Hunger reign, where Want and Beggery have their Habitation; then what doth he deserve who by defending all the Regicides in what they had done, by studied Blasphemies and elaborate Harangues upon so horrid a Subject, hath pull'd down the Guilt of them all upon himself, and hath contracted their divided Impieties into one, nay, hath done his utmost, which is worst of all, to persnade these Miscreants as much as in him lay, not to repent and be sorry for what they had done, and to encourage others to the like Attempts.

The Act of Grace, my Lord, that hath remitted the Punishment, hath not made the Fault less heinous than it was before; it is plain that his Case was rather more heinous than any of the Judges; and it is very strange that this Man should be thought to have a Right to eat the King's Bread, when others in Circumstances scarce altogether so criminal as his,

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his, are forced in foreign Countries to beg their own, and glad that even that least and last of Liberties belonging to Mankind is not denied them by the pursuit of Justice, and the Anger of a People barbarously robb'd of an indulgent Father, a Wise, Religious, Chast, Temperate, Just, Merciful, Magnanimous and Heroick King, which neither time nor distance are able to appease. Certainly the King hath either no power to visit, though never such Enormities be committed, though never such personal Affronts be put upon him, as it was in Mr. Hughes his Case, who preach'd and pray'd in this Hospital as the King's Chaplain, when he was scarce qualified to breath in his Dominions, or to enjoy any benefit of a Subject; certainly the King's Hospitals are any bodies rather than the King's, or in this instance, at least, he might exercise his Power, this was an allowable Cause of Visitation.

If the Mayor and Commonalty of the City of London had had in this Case an Authority so wholly independent on the King, as that his Majesty could not by Law have intermeddled in any Affair relating to the Hospitals of the City, yet the disposal of the Officers of the said Houses, so as to retain and dismiss them at their pleasure, being wholly Arbitrary and unaccountable in themselves, without any remedy or appeal to an higher Power, or a superior Court; It must needs have appeared to have been very hard, if they who might have dismiss a Servant or an Officer for no reason at all, would not have thought it reason sufficient to discard any Man, that the King was displeas'd at him, that he look'd upon him as disaffected to his Person or Government, that he had been guilty of such things as had given just cause of Anger and Offence to his Majesty against him; and the Hospital being confessed on all hands to be a Royal Foundation, that Gratitude and Piety which was due to the Memory of the Royal Founder, would have obliged the Trustees in future Generations

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to have such regard to his Successors in the Throne, that his Request should be Sacred as to all those things which they might lawfully have done without it, not only without the actual assignment of a Reason, but without the inward Power of being able to give one, if it were demanded: it must be confessed in this Case, that it would have been a great Affront, an unpardonable Contempt of Majesty for Subjects to stand it out with their King, in a Matter wherein he thought his Honor interested and concerned, though he had nothing that could be called a Right; but when he himself by an Authority superior to theirs, by his own Authority, by his Prerogative Royal, by a Right given and granted him by the Parliament it self, hath displaced or ejected any Person in such Circumstances as these out of any Office or Employment, whereof he stood formerly possessed, for a subordinate Power to pretend to restore such an one in defiance of his absolute and unaccountable Right, and in Contempt of the Reasons which he vouchsafes to assign, for which he did it: this certainly is so insufferable, so insupportable, so full of the utmost Indignity and Affront in Subjects to their Prince, that nothing can be more.

Disaffection to a Government, or Disobedience to it, are very good Reasons why a King should visit, wherever he hath a legal Power of Visitation, because the King is the Head of the Body Politick, and these are the greatest political Offences that can possibly be committed, and he must be the Judge who are disaffected and who not, so far as concerns all Places of trust and profit in his disposal, wherein the present Occupants or Incumbents have only an Arbitrary, not a legal Tenure, otherwise he can never visit at all upon any such account, unless those to whom he must be supposed to be accountable in this Case shall concur with him in Judgment, that he hath good cause so to do, so that it is but the Court of
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Aldermen's first demanding his Reasons, and then pretending to be dissatisfied with them; and he hath effectually lost his power of Visitation.

It cannot be denied, that all that were ejected in the late Visitation of King Charles II. were Dissenters, or at least so great Favorites of that Interest and Party, notwithstanding their Conformity in their own Persons, that they were rather more dangerous to the Government than the other: A Dissenter, as such, is one that separates from the Establish'd Worship and Communion for Conscience sake, which Conscience of his is either real or pretended: if it be only a pretended Conscience, this Man in plainer terms at what we call an Hypocrite and a Knave, he plays a Game of Interest, either to be reveng'd of an whole Party for the sake of some, against whom he hath conceiv'd an implacable Displeasure, or because he is of Opinion, and he may be extremely in the right so far, that it is for his advantage in point of Trade and Commerce to herd himself among the tender Consciences, and the Men of Scruples, though he inwardly despise and laugh at them all this while, or else he designs to furnish and enrich himself with the Spoils and Ornaments of Temples, and of Altars, and with the Revenues of a Church, which are the first and last of his Objections, and afford his covetous and ambitious Humor the best and the only Argument against it, or lastly, he is one that being deprest by the present posture of Affairs, and having a Mind too great for the meanness of his Fortune, will needs be shuffling the political Cards to try what new Game Confusion will produce. And it is all one to him whether he raise himself upon the Ruins of the Government, as it is by Law Establish'd both in Church and State, or upon terms of Honor and Advancement from it, by making himself necessary to its Preservation.

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There are four sorts of Hypocritical Dissenters, to which we might also add a fifth, that of a cross-grain'd and new-fang'd Tribe, whose Humor leads them naturally to Contradiction and Strife; and who, for that Reason, are always against all things that have the publick Sanction on their Side; but that though there be nothing of Conscience and Tenderneſs in ſuch an Humor as this, yet there ſeems to be a ſort of Sincerity in a peeviſh Temper, which is inconfiſtent with Hypocriſie and Diſſimulation.

But there is alſo the weak Brother, the real and conſcientious Separatiſt from the Church of England, who is ſincerely of opinion that his Salvation lies at ſtake, and that he cannot comply with the Eſtabliſh'd Worſhip and Service, without a wilful hazarding his everlaſting Happineſs in the World to come, and a perpetual pain and diſquiet to his Conſcience in this, the Peace of which, though he may be under a ſpeculative Miſtake, is that which he ought certainly to prefer before any worldly advantage whatſoever, and the pains of it contracted by a wilful Reſiſtance of its inward motions, though his Underſtanding all this while may be miſſed and corrupted by Prejudice and Miſtake, are far more exquisite and ſenſibly tormenting than the utmoſt Punishments that Law makers can invent, or Laws denounce, or Wit and Cruelty in confederacy together can inflict upon him.

This ſort of Diſſenter therefore, as ſuch I believe there are many to be found, is a very proper Object of Pity and Compaſſion from us, as the other, whenever he is openly detected, is of our ſcorn and hatred; but ſtill we ought to be very charitable and cautious in our Cenſures as to particular Perſons, notwithſtanding ſome failings, or wilful miſcarriages altogether inconfiſtent with the Profeſſions which they make, which they may have afterwards repented of, and we are to judge the beſt, without notorious Evidence to the contrary; for the

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Peace of the World, which is embroil'd, and endanger'd by a censorious and reproachful Spirit, and for the quiet of our own Minds which is strangely disturbed by angry and uncharitable Opinions of other Men; only this in general we may say of all the Parties among us, even those of the Establish'd Communion not excepted, that while the belief and hope of another World, is every where pretended, it is the Enjoyment of this, and the Gratification of the Desires and Appetites belonging to it, that is every where chiefly sought after.

But of all Men there are none that may be more justly or more safely censur'd, than those that look one way while they row another, that pretend to be strict Members of the National Communion, and yet make it their study under that disguise to do it all the mischief they can, and to encourage and abet the separating Parties in their Designs against it, for nothing is more plain than that this Man hath added Malice to Hypocrisie, the most exquisite Hatred to the most profound and criminal Dissimulation, that he lies in wait to deceive, that he may the more securely destroy, without giving warning of the Blow before it comes, or owning so much as a sincere Enmity, or a frank and fair Intention of Revenge.

Now this is common to all the several Parties of Dissenters from our Church, and of those that favor and abet them in disguise, that they all aim at an Ecclesiastical and a Civil Commonwealth, and their Principles even among those that are most honest and conscientious in them, do naturally aim at the Subversion both of Church and State, as to the present Establish'd Constitution of them: for Church and State, tho they be two things, yet they both consist and are made up of the same Persons, and the nature of Government is the same in both, and it is an Agreement between the Modes and Forms of Government in the Ecclesiastical and Civil Administration, that makes each of these most firm, strong and lasting

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lasting in it self, and also most useful and serviceable to the other.

It is certain, that he that in his Scruples is really Conscientious, he that hath all that tenderneſs of Senſe, that nicety of Palate in matters of Religion to which he outwardly pretends, he looks upon the Liturgy and Ceremonies by Law Eſtabliſh'd, and upon the Hierarchy or ſubordinate Government of this wiſely conſtituted Church, with all the Aversion which we have for Idolatry it ſelf, or for the moſt groſs and palpable Superſtition of which the Church of Rome is guilty at this day. He that pretends the ſame Scruples but really hath them not doth all the ſame things, as to any outward appearance that the other doth; and his Thoughts not being buſted about the other World, which he looks upon as a remote and an uncertain thing, (and perhaps obſerving the ſecular Intrigues and Policies of all Parties, while Heaven and Conſcience is every where pretended; he is the more hardened in his Contempt of every thing that is good or ſacred) this Man's immediate and direct aim, without any reſpect to his Happineſs or Miſery in a future State, is at the Ruin of that Eſtabliſhment, (for Reaſons of Intereſt, or out of Envy, Pride, or a new ſang'd Temper, that is always uneaſe under preſent things) from which he pretends to ſeparate for Conſcience ſake. Laſtly, he that in his own Perſon conforms to the Eſtabliſhment, but in his practice under I know not what healing, uniting, and moderate Pretences, is always a faſt Friend to the Diſſenting Parties, making uſe of all the Power and Intereſt he hath to advance their Credit, and to encrease their weight in the political Balance; he is manifeſtly got into a triple League with the other two, and he is much the moſt dangerous Confederate of the three, becauſe he is an Enemy in our own Quarters, an Adverſary in the diſguiſe and habit of a Friend, a Traitor that betrays

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trays and crucifies with a Kiss, and makes a shew of great Zeal for the good of that Establishment, which he designs to ruin and overthrow.

There is nothing more certain than that all these several sorts of Men do ~~agree~~ at the long run at the Subversion of the Monarchy it self, or whatever they may say or suggest in excuse of themselves, or to palliate so foul and true an Accusation; yet it is certain in the Experience of this and other Nations, that the Monarchy cannot subsist where Prelacy is destroy'd; and I wish some new Experiment of Disciplinary Principles and Practices in our own Age may not further convince us of the truth of this, for we have Moses and the Prophets already, past Experiences do sufficiently assure us, what the Event of such Practices and Designs must be, where they have scope and liberty enough allowed them, and now I pray God those old Confusions may never rise from the dead to convince us, that the same Causes, the same Passions, Designs and Interests, let alone to themselves and pursued into their Consequences, will everlastingly produce the same effects.

Nay, in Reason, my Lord, as well as in Experience, there is nothing more plain, if we argue forward from the Cause to the Effect, than that the Demolition of the Hierarchy and its Dependences together with it, which all of them have their first Spring and Fountain in the Crown, must be the depriving it of so many Friends, and by Consequence of so much Power; it not only throws a powerful and certain Interest, as it were by way of scramble, among the People, but by disarming and disabling the circumvented Prince, whose true Greatness consists in the multitude of those whose Interest it must always be to be his Friends, it arms and sets up a Commonwealth Party against him at his own Charge, and we know in days of yore, when the Bishops were once gone, the next thing complain'd of was the House of Lords, and then

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then the King himself was an insupportable Grievance, and all Orders and Degrees of Men amongst us, all that had either Honesty or Money and were dissatisfied with such Proceeding, or were suspected or represented so to be, or had appear'd in the defence of their Religion and Country were plundered, sequester'd, banish'd, and what not; as if the way to reform were to destroy, and the only means to make a Nation glorious and happy, were by oppressing it and tearing it in pieces.

But, my Lord, I shall not lanch out any further into these things, only what I have said was in order to shew the Reasons, why that Wise Prince and Excellent Person, King Charles II. made his Royal Visitation by his Commissioners under the Broad-Seal in this House, and why he thought fit to eject so many out of it, and to deprive them of all Interest, Authority, or Concern in it, both among the Officers and the Governors themselves, because he knew many of them to be profest Dissenters, or which is all one, Enemies to Monarchy, and Friends to no political Interest but a Commonwealth; and he suspected others not to be so good as they should be, and his Suspicion must be allowed to be a very good Reason in Places at his own disposal, when himself is the Judge without controul or appeal of the fitness respectively of every Person for them.

He had Reigned very happily for many years, with universal Peace and satiating Plenty, belov'd by his Subjects, and dreaded by his Neighbors round about, as Glorious and as Great in all respects as a great Fortune added to a great Mind could make him; and if we inquire into the Reasons of this wondrous Calm, those Halcyon Days, and Blessed Years that followed the Storms and Tempests of the late barbarous and bloody Usurpation, it can be imputed so properly to no human means, as to his Restoring and Re-establish-
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ing the Church in its ancient Beauty, Order, Purity and Splendor, and to his asserting it and defending it against all its Enemies by good and wholesome Laws; but when for Reasons which I do not meddle with, and which I cannot approve, he thought fit to lay the reins upon the Dissenters Necks by a Toleration granted without Act of Parliament, and to let them take their full swing of liberty in Religious Matters, insomuch that the Parliament then thought it necessary, as well to assert their own Authority, and to quash this Attempt at a Dissenting Power, as for other Considerations, which they had before them, to get the Declaration of Indulgence cancelled and withdrawn; yet from that time there was every where to be seen a virtual, though not an explicit and declared Indulgence, and the numbers of Dissenters were every where so considerable, that if they were but kept out of all places of Trust and Consequence in the Kingdom; Reason of State might even then have required, that so numerous a Party should be considered as to the liberty of their Consciences, and as to the outward exercise of their Religion, with an Indulgence ratified by the Publick Sanction, upon which they might safely rely, and not have the Oppression of their Consciences, on the Fear of it, to urge for a Pretence to justify or palliate Disobedience upon any future occasion, but this, though it was not then granted, yet if it had, it would not have served the turn as appeared by this, that to get into Employments and Publick Trusts in the Kingdom, their Casuists had started a new sort of Divinity among them, and made it lawful to serve the Interests and Designs of their Party, which can be nothing else when their Scruples are indulged, but the getting of the Government into their own hands, by telling them as to Oaths, which it was presumed by the Authority that enjoined them, such Persons would not take, that they were to be taken not in the sense of the Imposers, but of the takers themselves, and

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So every Oath was either altogether uncertain, that is vain and of no force at all, or it had as many Meanings as there could be private Interpretations made, or it was taken with the Proviso's and Limitations of the Casuists of the Party, who would be sure so to order the matter, as not to be excluded out of any Office or Employment by any Oath or Test that could be put upon them: and as for Oaths, so also for the Sacrament, they could not digest it upon every ordinary occasion, according to the usage and practice of the Church of England; but when the Receiving after that manner was made a Qualification for every publick Employment, then they distinguish'd very nicely betwixt the Religious Act and the Civil, or Political Qualification, they look'd upon it only as a civil Thing, a political Formality, a pre-requisite Agendum enjoin'd by the Laws of their Country, in order to qualifie and prepare them, for their respective Offices and Employments, the better to serve their own Party, and to do mischief to the Government in them, without any regard to the Religious Myſteries, comprehended under that awful and blessed Institution.

And as some did by occasional Communion, so others did by constant, and were great Zealots for the Establish'd Church, constant frequenters of the Divine Service and Sacraments, only to let them into Opportunities, as appeag'd by the Event: For the tree is known by its fruits, and disturb and overturn it, by favoring and abetting as much as in them lay all the Designs and Practices of the Separating Parties.

This being therefore an extraordinary Disease, to which no ordinary Remedies could be apply'd with success; for what can bind or tie up the hands of such Men whom neither Oaths nor Sacraments are able to oblige. It was judg'd by those that were then at the Helm of Affairs, that some extraordinary and unusual Course must be taken, to hinder these

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these profligate and wicked Principles, so destitute of the fear of God, and so destructive of all Faith and Society among Men, from having those mischievous Effects upon the Publick for which they were designed, and they at length ended in the seizure of so many Charters into the King's hands, and in his new modelling all Corporations at Discretion; displacing all such at his pleasure, as he had any proof of Disaffection, or any ground of Jealousie against, and placing others in their stead, in whom he might better confide.

I shall not go about to defend the Legality of such a Course as this; if the necessity of it will not defend it nothing will, for that there was a necessity of something extraordinary at that time to be done is apparent, and what was done had really this good Effect, that the Government was generally speaking put into better hands, the Republican Faction were every where discouraged, and the Monarchy and Church were set upon a firmer bottom than they had stood upon for many Years before: so that if this turn of State were in it self illegal, yet it cannot be deny'd, but it had wholsom Effects; and what with this and the legal Penalties which were then revived, and the many excellent Discourses published by our Clergy, to satisfy the Scruples, and rectify the Mistakes and Misapprehensions of the Dissenters; things were now arrived to a very great degree of composure, and the Schism was now in a very fair probability of moldering into nothing.

This present Parliament, however dissatisfied with such Proceedings, as supported barely by the King's Prerogative without any consent of theirs, and being look'd upon perhaps, as I am persuaded it was, as a design, among other things, to model Parliaments at the pleasure of the Court; and for that Reason such a general Disfranchisement of the Corporations, must needs in its Example and Consequence at least be a thing very dangerous to the liberty of the Subject, as

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it proved afterwards in the late King's Reign, when the Corporations were put into the hands of Dissenters and Papists: yet notwithstanding considering what sort of Men they were that were at that time put into publick Trusts, and how well the Corporations, as obnoxious to and dependent upon the Crown as they were, did afterwards acquit themselves in the beginning of the late King's Reign, by sending such Representatives to Parliament, as approved themselves upon the severest tryals to be so true to the Establish'd Protestant Religion, and to the liberties of the People, by refusing to revoke the Test and Penal Laws, and by a bold and generous disowning of the Dispensing Power, for which they were not only dissolved, as unfit and unserviceable for the present turn, but also put out of all places of trust, honor, profit and power through the Nation; I say, for these Reasons, and out of a just respect to the Eternal Merit of so much Virtue, Integrity and Courage in a critical and dangerous Juncture; the Parliament were so well satisfied and pleas'd with them, that they would not suffer them to be call'd in question, and much less would they be persuaded to render them incapable of any future Service, for so many Years together, as would have put the whole Power of the Nation effectually into such hands, as in all likelihood would have alter'd the Government both in Church and State, and secured a perpetual Republick to themselves.

It is our Saviour's own Rule, that a Kingdom or an House divided against it self cannot stand, not but that in this Kingdom or this House, there may be divers Opinions, and yet the Peace of them both may be maintain'd, either by Charity on the one hand, or by putting the whole Power of this Kingdom or this House into the hands of one sort, who want not sufficient means to defend themselves, and to keep the rest from doing them or one another any considerable harm on the
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other; but where not only Opinions, but also Powers are divided, where they that separate in Opinion from the rest, are sharers in the Civil Power together with them, there being no use of Power but for Defence or Annoyance, it is impossible but a divided Power must be proportionably weakened, but that Powers mixt that are employ'd upon different Designs must produce a dangerous Ferment, and that Powers divided and bent against each other must break and shatter one another's Strength; the Consequence of all which is, that when diversity of Opinions concerning matters of Religion or Government produceth State Factions and Parties in a Nation, there the Peace of that Nation cannot be preserved, but by putting the Civil Power entirely into the hands of one of them, and in this case that Party hath the greatest right, nay, it is a secondary Law of Nature, it is an Eternal Law of human Society supposing it once to subsist, that that Party should have the ascendant over the rest, which by its strength and credit is the best able to preserve it self, and to protect the rest, and which the rest may live the most easily and happily under; but let it be how it will where there are several Parties, it is necessary for the quiet of the World, and for the end of Government which is Peace, that one Party should have the Government over the rest, and (besides the assured hopes and expectations of a future and a better Life,) upon this very political Principle it was, that the Primitive Christians endured the bitterest Persecutions and the utmost Cruelties without the least thought of Resistance, it being better for the Civil Interest, and for the temporal Quiet and Happiness of this World, which good Men ought to prefer upon a publick Principle before any thing personal and belonging to themselves, that even the best of Men should suffer by Injustice, than that the State should be endangered or embroiled by a tumultuous Endeavor to free our selves from the Tyranny of the Laws, when ever they hap-
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pen to patronize the wrong side, as in many Countries they have always done.

Again, Where there is a Balance betwixt the contending Parties, or very nigh the matter, if we were to proceed by the Poll, there still it is a Law of Nature in the secondary Sense, it is a standing Law and Rule of human Society, that one of the Parties is to govern, the other to obey, because, ^{by} a mixture of both in places of trust and profit, ~~and~~ through the interfering Appetites and Designs of Men, and through the ridiculous and superstitious Fondness which most Men for want of Philosophy and Charity have entertained for their respective Opinions; it cannot fail but the Powers of such a Government will bulge upon each other and fall foul upon themselves. Its Laws and Edicts cannot have that force and efficacy which they should have, because such a Government hath divers Wills which cannot all be obey'd, and wants an uniform and steady Principle of Jurisdiction within it self, whereby to exact and force Obedience to its commands.

Where the Balance as to number is in a manner equal there the Party that is in Possession hath the right, because a real Possession of Offices of Trust and Profit, and which is more, of Arsenals, Magazines, and Places of strength, of Arms, Ammunition and Military Stores, and of the Ports and Naval Forces belonging to a Nation is such a vast addition of strength, though without number, to the one Party, that it is in vain and against the great Law of Self-Preservation for the other to contend: it is their truest Interest to submit to them, provided they may purchase their Safety by their Obedience, and that though they be excluded from any share in the Government, yet they are not deny'd the just liberties of Subjects, and have such a Security as may be depended upon for their Persons and Estates.

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But here when I speak of Possession and of Right, I mean, such a Right and such a Possession as is Establish'd by Law, according to the usual Methods and Formalities by which the Laws of any Country are enacted, for all other strength besides this is not properly potestas but latrocinium; it is a perpetual State of Violence and Piracy upon the People, and they who have the Laws on their side, though they should want other defences, are naturally bold and daring, their Complaints and Remonstrances will be always more or less considered and reflected upon even by their Enemies themselves, whereas a Party that useth force in Opposition to a legal Right, is always suspicious and timorous of it self, it hath always many Deserters that will be straggling from it, many secret Enemies harboring within its bosom, many Fears and Jealousies which rebate its edge and weaken its Resolution, and rob it of that Trust and Confidence within it self, which is always of necessity required to its Preservation.

Lastly, In such a case where a Nation consists of several divided Parties, and one of them able to poise and balance all the rest, there that is the Party that for the safety of the whole, hath the most natural and unquestionable right to govern, and if to this natural Right, resulting from its weight and number, there be added a legal Possession of the Government; this strengthens the natural by a positive or civil Title, and is the same sort of Right by which every Man holds his own, and if its Frame and Constitution within it self be such, as gives it the greatest fitness to govern and to preserve the Peace and Tranquillity of a Nation; here is an intrinsic Dignity and Worth belonging to it, added to the outward Circumstances of number and Possession, that finishes and completes this Right of presiding with Authority and Jurisdiction over all the rest, and gives the last strokes of Brightness and Perfection to it. Now this, my Lord, is manifestly

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manifestly the Case of the legal Establishment of the Church of England, with respect to all the separating and dissenting Parties amongst us; First, In number it equals, nay, I hope it exceeds and over-balances all the rest; Secondly, It hath the publick Sanction on its side, and is put into the Possession of the Government by the Laws; and Thirdly, Whether we respect its Principles which are mild and moderate, and have a noble mixture of the Gentleman and the Christian in them, or its Government which consists in a comely, beautiful and regular Subordination, in which Majesty, Proportion, and Strength, a graceful Hew, an healthful Constitution, a firm and well-compacted Organization are united; there can be no Establishment that is more fit to govern considered in it self, or is more able in the first place to secure its own peace and safety, and in the next to diffuse and propagate those blessings to all the several Parties of the Separation, by taking even those into its Guard and Protection, who will not admit of its more close Embraces, and refuse to be warm'd and cherish'd in its bosom, whereas if Power be indifferently lodged in Men of all Persuasions, it is impossible that any one Party should be safe, but the Vibration of Interests by giddy and uncertain Motions, and the mixture of Powers that are at strife and enmity with each other, will make every party dissident of it self, apprehensive of its fellows, insatiably thirsty of the Sovereign Power, which only can free it of its Fears and Dangers, and will infallibly produce some publick and intestine Commotions, if seasonable and effectual Remedies be not applied.

And as the Church of England is that Constitution, which is the best able to stand upon its own bottom, and to give Protection to the Parties dissenting from it, so is it also that Establishment whether we consider its Doctrine or its Government, its inward Sentiments, or its outward Policy, which

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which is the truest Friend and Supporter of the Crown, it is that without which the Monarchy can no more subsist, than a Candle can burn without Flame, than a Lamp can be maintain'd without Oil, or a Fire subsist without Heat; so that every Dissenter who envys at the Hierarchy, or endeavors to level the Ecclesiastical State into a new Model of his own or his Teacher's making, does by robbing the Crown of its best and most powerful Friends, its most faithful, steady and affectionate Champions and Defenders: leave it to the mercy of Republican Designs, and expose it to the Rage and Fury of the worst of Men; every Dissenter is either an Enemy to Monarchy, or he does not understand his own Principles, if he be not, (and this I believe to be the Case of very great numbers amongst them,) for his Principles and Models of Government in the Church will as certainly destroy and overthrow Monarchy in the State, as Fire will melt Wax, or Water extinguish Fire; So that I take a Dissenter and a Commonwealthsman to be in a manner convertible terms, and that no considering Man can pretend with a safe Conscience that Episcopacy is unlawful, but he must own with the same breath that Monarchy is so too; for these two things will always have such a Connexion, that it will be impossible to separate the one of them from the other, neither can any Man who is a Friend to his Prince, be an Enemy to the Grandure of the Ecclesiastical State, though it were indeed much greater, and more invidious than it is.

There is no one Party of the Separation that will pretend to vie Strength or Interest with the Church of England, but being all united in confederacy together, and in favorable Junctures to wicked Designs and Men, when the People are discontented, the State is troubled, and Animosities are grown high, and in a manner incurable betwixt the King and his two Houses, they may and they have actually destroy'd and over-

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thrown it, as it happened in the late times in the troublesome and distemper'd Reign of King Charles I. but when that work is done, they cannot all Rule together, and they have no one Party that is fit to govern the rest; the Presbyterians who are perhaps the fittest to govern of all the Dissenting Parties were the first that leap'd into the empty Saddle, but they wanted an Academy to teach them to ride, for they could not sit long there, but were dismounted with Contempt and Scorn by the growing Interest of the Independent Party, the rigor of their Discipline would not be endured, the Meanness of their Persons was despised, and their whole Management was so distastful, that it hath made them odious to the best and wisest part of the Nation ever since, they wanted the two things without which it will be always impossible to govern; Strength on the one side and Reverence on the other; to make amends for which defect, and to reconcile the People to the new Model, by making them Parts of the Building, and Sharers in the Administration of Ecclesiastical Affairs; the Lay-Eldest were called in, and they, as is usual for Men of Mechanick and frequently even sordid Education, when they are gotten into power, were the most insolent, intolerable and insupportable People in the World.

Presbytery either emergeth out of the state of Parity, which is a State of Force and Rigor, that hath no Reverence for its own Authority, and is unease under its own Bonds, into the noble and only natural state of an Episcopal Subordination; (for Government and Subordination, the several degrees of the one and of the other, and the Perfection of them both, are indeed but the same things under several and distinct Names,) or else it drops downwards into Independency, that is distinct and separate Assemblies without any common appeal amongst them all, which is the last and most imperfect state of human Society, whether in Sacred or in Civil Bodies, and is the next step to
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Confusion, if it be not Confusion it self, out of which, as from a Chaos, weary of it self and of its own dark, distracted and disordered Nature, a new World of Beauty and of Order doth naturally arise, and from the Inconveniences, the endless Troubles, the wild Enthusiasms, the mad and extravagant Perplexities and Tormails of such a State; at length it comes to pass that the Spirit of God begins to move upon the face of the Waters and Light to flutter with uncertain motions, and with a gloomy and imperfect Beam, till Monarchy and Prelacy the two great Lights, the Sun to Rule the Passions and Appetites of the Day, the Moon to dispel the Ignorance and Darknes of the Night, begin to rouse their drooping and disconsolate Heads, as they did at the end of our late unhappy Confusions, and like the Phenix burnt in its own spicy Nest, to revive those Odors and retrieve themselves into a new vigorous and fragrant Life, gaining new Strength, and Youth, and Beauty, from their Ruins: for this is, and will always be, the standing nature of things, that as order degenerates through carelesness or through design into Confusion; so Confusion must either end in absolute Destruction, or retrieve it self back again into necessary Order, and there being but two ways to keep Mankind in Obedience, that is, either by Force or Persuasion, Force is an uncertain and capricious thing, and where it conquers most, its conquest is imperfect, because it hath no empire over the Will, in the Obedience of which alone it is, that any Empire or Government is secure, and Persuasion without Force will scarce do so much as Force without Persuasion, amongst so many obstinate and perverse Wills as every Government is to work upon for its own Peace and Safety, but it is a willing Fear, a Fear mixt with Reverence and blended with Love, it is wholesome Laws enforced by a comely and subordinate dependence of all the parts of a Government upon each other, and recommended by the greatness and dignity of the Persons with whom the

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Execution of them, whether in Sacred or in Civil Matters, is intrusted, it is a certain mixture by wise and just Proportions of these two Principles together, so as to render Disobedience not only unsafe, but also unreasonable and inexcusable too, and to enforce Obedience by the Beauty and Majesty, and wise Contexture of that Government to which it is pay'd, that when all is done is the only true Elixir of Life, and the best Expedient to make any Body or Community of Men both firm and happy, to secure it the most effectually from intestine Maladies, and external Dangers, and make it pleased and contented within it self.

That Form of Government is certainly the best, whether in Church or State, which gives the greatest Encouragement to Virtue and to Merit, and propounds the fairest hopes to great Minds, to animate and inspire them with an impatient Constancy in the pursuit of Praise, through all the Fatigues and Difficulties that attend it; and this without question is the subordinate Form, as well in Church as State, wherein a Scale of Honor is propounded, and every new step, as it is a Reward of past Endeavors, so is it a strong Incitement for the future, to go on in the same Courses with new and daily Improvements of Wisdom and of Virtue to our lives end; this gives Authority and Reputation to a Church, and makes its Laws more easie by the Reverence which is paid to those with whom the Ecclesiastical Discipline is intrusted, it refines and sublimates, by the Example and Doctrine of its Teachers, the Genius of a Nation, whose true Pride and Ornament consists in the Exaltation of those Faculties, and in the Exercise of those Moral Virtues, by which we are Men, and by which we differ from the Beasts that perish.

That cannot be a true and perfect Constitution, where Learning and Philosophy, for want of sufficient Encouragement in the Prosecution of them, are first of mere Necessity disregarded.

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ed, (Mens Minds being sunk into a proportionable degree of Poverty with their Fortunes and their Hopes) and then by way of plea for Ignorance, decry'd; nor that where the unnatural Rigors of Discipline are such that they destroy the true Freedoms, and innocent Diversifements of human Conversation, Nor lastly that, which by Hypocrisie or something very like it, by uncount Formalities, and uneasie Affections renders it self nauseous, to the best and wisest part of Mankind, to Men of the best Principles, and to the most candid and ingenious Tempers belonging to a Nation, to the Nobility and Gentry of this Kingdom in particular, and to all the Men of frank and liberal Education, who will never endure that intolerable Yoke of Pharisaick Righteousness, and Saucy Rigor, that turns Men either into Hypocrites or Fools, and makes them look as if they were bewitch'd or enchanted, to sit upon their Necks, but will be sure to shake it off, and free themselves from under its insupportable pressures with all the Indignation and Scorn which it deserves.

To conclude this matter therefore, the Church of England among all the several Parties and Distinctions that are amongst us, is singly and alone that Body of Men to which the Government of the rest is due, whether we consider the greatness of its numbers, the extent and wideness of its Interest and Power, the Wisdom and Moderation of its Principles and Doctrines, the Candor and more than usual Humanity and Ingenuity of its Members, the learning and universally acknowledged Merit and Dignity of its Pastors, the Strength and Beauty of its subordinate Constitution, its agreeableness to Monarchy, and to the Genius and Temper of the best and wisest part of the Nation among all Ranks and Qualities whatsoever; all other Parties may be shaded and protected by this and kept from annoying it or one another, supposing all Offices of publick Trust; and all things that belong to the Exercise of Power be put into

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its hands, but without it, it is impossible they should all be safe, and scarce any one of them would be able to subsist, which thing if all the honest part of the Dissenters would seriously consider, they would be content, with the liberty of their Consciences, which without Necessity ought not to be denied them, that is, with all that liberty of Action and Profession in Religious Matters which they do not abuse to the prejudice of their Neighbor or the Publick, without pretending to any share in the Government, which in a Monarchy cannot subsist upon their terms, but is greatly endangered, though but by a mixture of such, or their notorious Abettors in it, and if nothing but the Government will serve their turn, notwithstanding all the other Blessings and Privileges of Subjects, whether they be of a Temporal or a Spiritual Nature, which they are allowed to enjoy, they cannot in reason expect in this case to be treated as Men of tender Consciences, but of seditious Tempers, and as Disturbers of the publick Peace, which by such turbulent and ambitious Practices they go about to undermine, and to confirm us in an Opinion, which for my part I have always entertained concerning the Men of the best Parts and Abilities among them, that a Dissenter and a Commonwealths-man hardly differ so much as the two Amphitruoes or the two Sosias in Plautus; for they, though they were very like, yet they were not the same; neither in all this have I said any more than what the Wisdom and Authority of this present Parliament will justify me in, for they though they have granted an universal Indulgence to all the Protestant Denominations among us, yet they have not taken off those Tests, which will effectually secure all that are not openly false and treacherous to their own avowed Principles among them, from having any share in any Publick Trust, or in any matter of Policy or State.

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I have insisted the more largely upon this weighty Subject concerning the necessity of there being one Governing Party in a Nation, where there are several differing and disagreeing with each other, as to their Sentiments in Religion, or as to their Notions of Government, whether by a Monarchy or a Commonwealth, that I might represent in as clear a Light as my Meanness would permit, the Reasons of State that moved that discerning Prince K. Charles II. to take so extraordinary and unusual Measures in the regulating and new modelling the Corporations of England; which being now confessed on all hands to have been very Unwarrantable, Arbitrary, and Illegal, it hath derived no small Prejudice upon some other Affairs, which though legal in themselves, were yet not only consequent upon it in point of Time and Order, but perhaps if it had not been for the aforesaid Regulation, had never been transacted; and such the Visitation of the Hospitals seems to have been.

For my own part, my Lord, I am very clearly of Opinion, that the Seizure and Avoidance of the Charters, and the almost forceable Surrenders that were made, however it might be done for Reasons of Publick Good, so far as the present Turn was concerned, yet in the way of doing it by the sole Authority and Prerogative of the Prince, through almost all Corporations, almost at the same time, it was altogether Arbitrary and Illegal, and that in its Consequences, as appeared sufficiently in the next Reign; it was pernicious and destructive to that very Design for which it was first made use of, when by the very same Power, added to that other of dispensing with Tests and Penal Laws, the Corporations were so regulated, that Papists and Dissenters were almost the only Men that were trusted or employed, and the Government of all Places was put into such Hands as the Law had expressly and sollicitously precluded from having any share

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in the Publick Administration; not that the Romanists had any such real Tenderness for the Dissenters, or that they on the other side by all the Caresses and Endearments in the World, could be brought off from their deserved Aversions to the Church of Rome; but in this common Design they both agreed, That the Church of England must down; and then a new Tryal of Skill would have succeeded, which of these two should be triumphant at last, and trample upon the other after all this Fawning and Friendship: the Romanists, who can never tolerate but when it is not in their Power to punish, relied upon the Favour of the King, the Advantages of that Power and Interest that would be put into their Hands, and their then very formidable Alliances abroad; but yet the Dissenters still looked upon them but as an handful of Men, and thought at last by their Numbers to prevail: and this was plainly and manifestly the Game that was then played on both sides.

The Regulation of Corporations by the Quo Warranto's, must be acknowledged to have had a great deal of Arbitrary in it, because, as I have already hinted, it seemed to strike at the great Fundamental of the English Liberty, which consists so much in the Freedom of Elections for Burgesses to serve in Parliament; and by this means, if Corporations might be disfranchised and renewed according to the King's Pleasure, Parliaments might be molded according to the same. And there was also a particular Account upon which this Procedure was very offensive and ungrateful to great numbers of Men; and that is, that it was designed to ensure the Succession, without any Interruption or Exclusion to the next Heir, whose Religion was a Pretence with some, and a Reason of Conscience with others, for hindering his Accession to the Crown; and this it did effectually do, there being few or none permitted to have any Power, or to make
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any Figure in this unprecedented universal Regulation, but such as had beforehand openly declared against any such Exclusion, and were zealous Asserters of the Monarchy in its old course of Descent: but it must always be owned, to the Honor of those Gentlemen, generally speaking, all over the Nation, that bating the Authority by which they acted, which the Parliament have declared to have been Arbitrary and Illegal, and the Reason of the Thing speaks as much, yet as to their Actions themselves, or as to their Behaviour in their respective Charges, they shewed plainly, that what they had done was only out of an honest and an upright Zeal for the Preservation of the Monarchy in its true Line, in opposition to the Practices and Designs of Republicans and Dissenters, who were glad of any colour or shadow of a Reason, to interrupt, and as they thought, to weaken it, and render it more precarious by so doing, without any thought of Compliance with a false Religion, or of submitting themselves and their Posterity to the old Bondage of the See of Rome. And as one great Instance and assured Token of their Firmness and Constancy to the Religion establish'd, they sent us a Representative like themselves, after all the Art and Industry used by Court Emissaries and Agents at the respective Elections in the beginning of the last Reign; a Parliament that could distinguish rightly betwixt God and Cæsar, and was resolved to give to each of them their due; a Parliament that opposed vigorously the Dispensing Power, and stood up firmly to the Church and the Laws; and a Parliament that, as the Right Reverend my Lord Bishop of Salisbury in one of the six Papers that go under his Name, observes, made sufficient Amends for the Faults of their Election, by their personal Virtues, and by the Courage and Constancy which they shewed in the Defence of their Religion and Country: so that when the Point of Succession was now over by the immediate Heir's

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being actually in the Throne, and when they would not break in upon those Walls and Fences that had so long preserved this Paradise of England from the Ravages and Incurſions of the Beasts out of the Wood, and the ſavage Beasts of the Deſart and the Field, there was now no longer uſe of ſuch Men, they were diſcarded and diſſolved, as uſiſt for any future Service; and new Regulations, and of another ſort, were attempted, in which none could be found ſo fit for the preſent Turn, as they that were formerly the moſt eager and clamorous for the Paſſing the Bill of Excluſion, the Commonwealth and the Diſſenting Party, who more out of Hatred to the Church of England than Love to that of Rome, to which they were ſtill more averſe, made large Promiſes of revoking all theſe Teſts and other Penal Laws relating to Religion, by which the eſtabliſhed Church was fortified and defended: and this was done, as it were, by way of Bargain between the two Parties; for the King would not annul the Penal Laws againſt Proteſtant Diſſenters, unleſs the Teſts and other Laws againſt Popiſh Recuſants, might be aboliſhed and abrogated at the ſame time; and the Diſſenters, great numbers of them, for I do not I dare not charge them all, were content, upon this Condition, to let their new Confederates, the Popiſts, enjoy the ſame Freedom and Liberty with themſelves, intending after this, when they had deſtroyed the Church of England, to try what work they could make with their new Friends and Allies, which at the long run, and at the winding up of the bottom, was manifeſtly the Deſign of both Parties upon each other; for the nature of things will never permit there ſhould be a laſting Peace betwixt Parties of ſuch different Interests, and of ſuch fix'd and rooted Averſions on both ſides; ſo that it muſt needs be plain to any Man that ſhall conſider it, that the Diſſenting and Commonwealth Party, who were generally the moſt hot for Paſſing the Bill
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of Exclusion, besides the just Aversions which they had to Popery, had an eye at the weakening of the Monarchy it self, which they thought by this means might be impaired, and that the other who were against it, had not the least thought of Prejudice to the establish'd Religion, but rather acted, as they then conceived, for the Defence and Preservation of it, the Monarchy and the Establishment of the Church of England being so plainly bound up in each other: tho I deny not all this while, but many worthy Gentlemen acted in this Affair for the Excluding Side, out of no other Principle but a just Tenderness and conscientious Regard to their Religion and Liberties, and because they were of Opinion, the Monarchy was not like to run so great an hazard by one single Interruption in the Succession to the Crown: and on the other side, the Non-Excluders, tho what they did was out of Reasons of Policy and State, and out of Principles of Conscience too; yet Time, the only true Judge of Controversies of this nature, hath at length taught them by an Experience much to be lamented and deplored, that there may be an Excess of Loyalty upon some Occasions, and that Princes of that Persuasion are never to be obliged by all the utmost Services that can be done them, that they know no Gratitude, and can remember no Kindness, but look upon all as unprofitable Servants that will not be Converts, as well as they have been Friends.

Now though nothing be more unskilful, if it be not unjust and wicked, than to tack the Avoidance of the Charters and the Regulation of the Hospitals so very close together, as if they had an inseparable Connexion with each other and were not to be parted, and to affirm, that the one being Arbitrary and Illegal, the other must of necessity be so too; yet this is almost the only thing that is pretended against it; this is that that hath drawn such an Odium upon this latter Action for the sake of the former, that it is reckoned by all

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that have not, or cannot, or will not pry into the true state of the Case, among the Arbitrary Transactions of that Reign, and the Persons employed in the Service of these Houses, in the room of any that were rejected from them, are blackned and branded by their Enemies for the sake of their Cause; we will allow them, that the first Hint of the aforesaid Regulations was taken from the seizure of the City Charter into the King's Hands, and that the Charter being voided, there was a necessity that the Hospitals, which were annexed to and incorporated into the City, should be managed as the City was, by a more particular and immediate Commission from the King; but yet the King need not have made any Regulation all this while; and unless they can prove that the King might not have visited, though the Charter had been in full force and virtue, they do nothing at all, or at least nothing to the purpose; for if he might not have visited and made what Regulations he saw fit, in case the Charter had been standing, I would fain know what is the meaning of that Clause in the Act of Parliament of K. Hen. 8. which I have cited, or of that Reservation in the Grant of K. Edw. 6. ? but if he might visit though the Charter were still standing, then the Illegality of the Seizure or Avoidance of the Charter, could by no means affect the Regulations that were made in these charitable Houses, because they have another and a distinct Authority whereby to defend themselves.

Again, if the Seizure of the Charters themselves, though it could not be justified by Law, and was defective and arbitrary as to the Authority upon which it proceeded; yet had such a Reason of Equity, or of Prudence, or Necessity, or whatever we shall call it, as did really reconcile, if not recommend it too, to some that were no Friends to Arbitrary Power, how much more reasonable was the Visitation made in this and other Houses, and the Regulations consequent upon it, when the
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King proceeded by virtue of a Power, which even the bitterest Adversaries it hath must after all acknowledge to be his due; nay, what an Absurdity would it have been for him not to visit, where he hath such an unquestionable Right of Visitation, to expel those Enemies of his out of his own House that say in their Hearts, We are for a Commonwealth, and we will not have this Man to reign over us. For, turn a Dissenter, or an Half conformist, or a Favourer or Abetter of such, turn him forward and backward, topsy turvy, inside and out-side, set his Face towards Samaria, or set it towards Jerusalem, he is still the same Person all over, in every part and in every Position, a Commonwealth-man, and an Enemy to Monarchy, whether he knows it or designs it or no; and he differs no more under one Representation from what he is in another, any honest and fair Representation I mean, than the Southern and the Eastern Prospect of the same Building, which are all essential to, and constitutive of the whole, and are but several Parts of the same Aggregate or Commonwealth of Stones of which it is compiled. It is an hard Case that a King must be forced to accept of such to be his Governors or Officers and Servants in his House, that are all of them Enemies to his Government in their Notions, and most of them in their Designs; and if he be not forced to submit to these extravagant terms, so that Governors of a Feather shall chuse one another by consent, and shall administer the Affairs of the House whether he will or no, and shall call Committees if they please, of a select number, to plot against the Government, under pretence of doing the Business of the House; I say, if he be not thus forced, but may by Law discard either Officers or Governors at his Pleasure, then it is plain, that they who pretend to restore the very Persons that were so ejected, do assume to themselves a Dispensing Power in no less than five several Respects, which is enough in all Conscience for Subjects to do.

First,

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First, They dispense, and whether the King will or no, whose Authority first gave the Sanction to the Law, with that Clause of the Act of King H. 8. by which the King and his Successors for the time being, were for ever invested with a Power and Right of Visitation and Redress, by rendering that Clause altogether fruitless, insignificant and vain.

Secondly, They dispense with the Reservation in the Grant of King Edward VI. by which after all his Concessions to the City of London, he still reserved this Power and Right to himself and to his Successors in the Throne for ever.

Thirdly, They dispense with that particular Clause in the said Grant, whereby a fit and convenient Minister is provided to celebrate Divine Services, and administer the Sacraments and Sacramentals to the Poor and Officers, and Ministers of the said Hospital and House; for by that fit and convenient Minister, I have undeniably proved in my Appendix to the *Queries upon the Statute of H. 8.* That a Clergy-man of the Church of England according to Law was intended, and the same must be understood of the Officers of the House, to whom the said Hospitaller cannot otherwise administer the Sacraments and Sacramentals, nor celebrate Divine Services in their presence and hearing, as King Edward required they should do; but as for the Poor indeed it is another Case, there is an occasional Dispensation certainly included in the nature of the thing, for it does by no means follow, because a Man cannot bring himself to be of our Persuasion, that therefore his Necessities must not be relieved, his Wants supplied, or his Diseases, Wounds, or Ailments cured, but for Officers and Servants there is no color of excuse in so great Choice of fit Persons to be found; and if not Officers of a Dissenting Party, then it follows plainly, nor Governors neither, because such Governors will always abuse their Trust in favor of that Interest and Party to which they belong, and they will think themselves bound to contravene and disappoint

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point this Provision of King Edward even for Conscience sake, to propagate and encourage that which they esteem the only true Profession of the Gospel, and to discourage that Formality and Superstition of ours, which they so loudly and so passionately, and in their own Thoughts so deservedly complain of; nay, if we add Experience to Reason and conjecture, we know by long Experience, that they have always acted according to these measures.

Fourthly, They dispense with the qualifying Act of the 25 Car. 2. as I have proved sufficiently in the following Papers, it is Sir Edward Hales his Case, the Bishop of Oxford's Case, the Charter House Case, and the whole Magdalen College Case, as exactly as any thing can be, only with this Aggravation, which makes it so much the worse, that it is a Power exercised by Subjects, not by Kings, by Subjects in contempt of the just Power and Prerogative of their Prince, by Subjects in derogation to the standing Laws of the Realm, and in defiance both of King and Parliament together.

Fifthly and lastly, They dispense with the late Act for reversing the Judgment in a quo Warranto, &c. for by that Act, or I am much mistaken, after having very seriously considered it, the present Lord Mayor, commonly so call'd, and several of his Collegues and Assessors upon the Bench are declared not to be, and never to have been legal and rightful Lord Mayor and Aldermen of this City, so that the Governors and Officers pretending to be restored, holding by no other Authority but theirs, and there not being a Majority in that Court without them: There is nothing more certain than that they hold by nothing, which is hardly so good as a drowning Man by a Reed, and yet he must drown for all that.

For my part, I must be frank and clear with your Lordship and the World, that it seems to me a great Scandal to the Government, it casts a Blame of Dishonour, and Reproach of Weakness and Infirmary upon the Supreme Powers, when

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when its Enemies, such as are at least virtually and consequently, if not actually so, shall be suffered to swagger and domineer, with the blustering Title of Governors, to which they have no Title, though they behave themselves of all Men the most imperiously and proudly under the lofty Imaginations that it puts into their weak Heads, in a place where the King hath a legal and rightful Visitation, and it is a further dishonor in this Case, where they can make out no Title to so proud a Word, that his Friends and Servants shall be affronted and curb'd, after having had the Improvements of a polite and liberal Education, by every little thing that hath neither Parts nor Breeding, merely because it presumes to call it self a Governor, though it knows not how to govern it self, and is hardly qualified to be Governor of Jack Strawe's Castle, but yet is ~~as~~ as full and as big swell'd with the title, as if it were indeed the Governor of some mighty Fortrefs, that had a powerful Garison at its Devotion, and the Country for twenty or thirty Miles round under Military Contribution, and if the King of the Country, by whose only Power and Authority he acts, should pretend to visit or call him to an account; he could immediately set him and his Army under Water, and so farewell to Pharaoh and his Host, for all are Egyptians to the Dissenters and Commonwealths-men but themselves, they are the only true Israelites when all is done, and they make no bones of stealing this Crown Jewel of a Privilege to visit from an Egyptian King, or indeed any King whatsoever, for no King comes amiss, they love them all and their Privilege so well.

My Lord, I do humbly propose it to your Lordship's Consideration, that it is not only a dishonor to their Majesties, that any of their Charities should be wholly managed by Men of a Republican Principle and Party, but that the Peace of this House can never be secured, unless we be all of a Mind, as well the Governors as the Officers and Servants, true and hearty

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heartly Communicants of the Establish'd Church, and such as have given such proofs of Conformity and Steadiness to the Government both in Church and State, as the Law requires; then, and not before, it is that we may expect to see happy Days, if it be possible in a miserable Place, and in the midst of Sickness and Diseases; not till then it is that the Affairs of this House, disturbed by mutual Animosities and intestine Broils, will go on with an even and successful Pace, to the Credit of the Government, and to the utmost Advantage of the Sick and Wounded.

My Lord, I humbly beg your Lordship's Pardon for this very long, this unexpectedly long preliminary Address; I shall add but two things more, and that very briefly, and so conclude. My Lord, What are these Gentlemen that will needs make themselves Parties, and will needs be Defendants in this Cause against us? The Plaintiffs certainly know best who it is by whom they are aggrieved, and they complain of none but of Sir T. P. the pretended Lord Mayor, and those of his Brethren that have concurred with him for the displacing of those whom K. Charles II. by an undoubted Prerogative inherent in the Crown sent hither, and for the restoring of those whom he by the same Right hath ejected. I have nothing to say to Hughes, as to the Money that hath been paid him; but I must expect my Satisfaction from those by whose Order it was done; and they, if any, are the Defendants in this Cause. And here there are two Points to be insisted upon: first, Whether the Court of Aldermen, at the passing of those Orders, were a legal Court? or, Whether it be so or no to this very day, till it be purged of those that have nothing to do to sit there, and till the Number be filled up by those that are better qualified to take the Stile and Dignity of Aldermen upon them? Secondly, The King's Power of Visitation being

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acknowledged, as we are ready to prove it undeniably, if it be disputed, whether even a legal Court of Aldermen can rescind the legal Act of the King, in an Affair that lies so plainly and so properly within his Royal Cognizance and Visitation. But as for these Gentlemen that call themselves Governors, and will by all means be Parties under that Name and Notion, who are they? Are they not all, or the much greatest part of them, the very same Men that were ejected by K. Charles II. so that their Title to the Stile and Office of Governors of this House, is a thing every whit as much disputed, and for the same Reason, as that of any of the Officers pretending to be restored? How then comes it to pass, that they so confidently presume to act as the Delegates or Attorneys of this House, and to appear before Your Lordship as a Representative of the whole Body of Governors in its behalf; when yet all this while it is a very great Question, whether they do really belong to it or no, and a Question that cannot be resolved in their Favour, as I humbly conceive, without the Admission of a Dispensing Power in Men that never pretended to it till now, and that decry it in Princes themselves. But they appear in the Hospital Behalf; and they were to be commended for their Charity to appear in the Behalf of a charitable Foundation, to rescue it from Abuses, and to assert its Rights, if they did all this at their own Charge; but it is their Majesties and the Hospital that must pay for all this out of the Hospital Stock, though the Design be nothing else but to overthrow the Royal Prerogative, and to clip the Wings of the Imperial Eagles: but this is the Commonwealth Notion of the Liberty of the Subject, the Destruction of the Rights and Prerogatives of Kings.

But secondly, my Lord, as the best refuge which our Adversaries have in a very shameless and defenceless Cause, they are pleased to say, that our Orders from the Commission run
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only during pleasure, and that that pleasure and its effects are extinct, the one of which we grant, the other we deny, for the pleasure of that Court was the pleasure of the King, who never dyes, though he may recal what he hath done by a new Commission, or by a new and further Declaration of his own Will, but for an inferior Court, whose Abuses were intended to be corrected, to renew and act over again the same Abuses, and to restore the very same Persons and Powers that were discarded, upon pretence that the pleasure of the Commissioners, which they never withdrew by any Act of theirs, is extinct by their Dissolution, is to render the King a Power of Kinsmanship, a thing so extremely mean, little and contemptible, and besides to cast a Blemish either of Ignorance, or which is a greater dishonor, of injustice upon him that it is a plea not to be endured; and I am sure it scarce deserves an Answer. If the Governors had chosen an Officer upon a Competition, and and the odds had been thirty and thirty one, or any other number making only one difference, It is certain the odds had carried it; but suppose within a day or two, two of the thirty one had died or resigned their Staves as Governors of the House, in this Case it is certain, that the pleasure of the thirty one, had been extinct, in the same Sense that that of the Commissioners is pretended to be, and then the Will of the thirty still supposed to be surviving must have prevailed, and the Officer chosen by the thirty one, ejected to make room for him that was chosen by the thirty, which is flat and clean contrary to the Course and Practice of all Elections, and is a sufficient Indication, that the Legality of such Acts when they are done, derives a Validity upon them, even in Arbitrary Dependences for the time to come, unless they be repealed by a superior or at least an equal Authority, and the nature of Justice and Morality require that it should be done likewise for equitable Reasons; and if

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OU the Act of Parliament for the reversing the Judgment, hath confirm'd all those Acts during the avoidance of the Charter, which would have been legal, had the Charter stood, how much more ought those Acts to be esteem'd valid, which have also a legal Foundation, as this Commission manifestly had, so far as the Hospitals were concern'd, whether the Charter had been seized or no?

My Lord, It is rather the King and Queen are the Plaintiffs in this Cause than we, it is their Eternal Prerogative, more than our Temporary Interest that is concerned, and it is plainly a Contest and a Struggle betwixt a Commonwealth-Faction, and the Monarchy and Crown of England. I shall detain your Lordship no longer from the perusal of the following Memorial, but humbly beg leave to write and subscribe my self, My Lord,

Your Lordship's most Humble,

and most Obedient Servant,

Aug. 25.

1690.

John Turner.

A MEMO-

MEMORIAL

Humbly Presented to the Right Honorable
The Lord Chief Justice

OF THE
KING'S-BENCH, &c.

May it Please Your Lordship,

THE Case referred to your Lordship by the Council Board is so plain, that it needs only opening and being set in its true Light to determine that Justice, which is byals'd by nothing but Reasons drawn from it self, to the Plaintiff's side.

My Lord, By a Clause in a Statute of the 28th. H. 8. c. 21. it is provided *That it shall not be lawful for the Archbishop of Canterbury or any other Person or Persons to visit or view any Monasteries, &c. Hospitals, Houses or other places Religious, which be or were exempt before the making of this Act, but that Redress, Visitation and Confirmation, shall be had by the King's Highness by Commission under the Great Seal, to be directed to such Persons as shall be appointed requisite for the same.*

And in the Royal Grant of King Edward VI. to the Mayor, Commonalty, and Citizens of the City of London, whereby the ordinary Government and Administration of the said Hos-

pital and of its Lands, Revenues, and Possessions is entirely committed to and entrusted with the Mayor, Commonalty, and Citizens aforesaid; yet there is still notwithstanding a special Proviso in extraordinary Cases, whereby the Power of Visitation and Regulation in the said Hospital is reserved to the King and his Successors for ever; the very Words of the Clause are these that follow.

And We will and declare by these Presents, that it shall be lawful for Us, Our Heirs and Successors from time to time, as often as it shall seem fit and expedient, to assign Our Commissioners to visit the said Hospital and House of the Poor, and to do and execute all and singular such other things whatsoever, as We, Our Heirs and Successors shall there command to be done.

As to the Clause in the Act of Parliament, which is still in force, that Act having never yet been repealed either in whole or in part; it is plain, that if this Hospital were such, though it were not an Hospital of the same nature, before the making of this Act, if it were a Religious House, in the same sense that all Charitable Foundations are interpreted to be so; and if it were a Place exempt from Episcopal Jurisdiction at the time of the making of this Act and before it, and hath continued so ever since, in virtue of that ancient Exemption, which it is matter of Fact that it hath done, and it is equally certain, that it can plead no other Right of Exemption, but this to this very day, then is it without controversy a Place subject to the King's Visitation by virtue of this Act; and that the Kings and Queens of England for the time being, may, for ever visit and regulate all Abuses and Misgovernment from time to time that shall or may arise, or shall be by them deemed or adjudged to arise in the Administration or Superintendency of the same.

As to the Clause produced and cited out of the Grant of King Edward, whereby he reserves a Power of Visitation to himself and Successors for ever in the Hospital of St. Thomas Southwark, which is the Scene of the Controversie now depending, before your Lordship, it hath two several Foundations to rely upon.

First, The Clause that hath been alleged out of the Act of H. 8. by which he was intrusted with a Power of Visitation in all Religious Houses and Places exempt as this is; and Parliamentary Trusts ratified and accepted by the Royal San-

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tion can no more be violated than Coronation Oaths; for every Law is a part of the matter of that Oath, which obligeth the King equally to observe and maintain all the Laws, and in every Trust lodged in the King by Act of Parliament; the Performance of it is supposed to be exacted and called for by the same Authority, which is always sitting, always in being until that fiduciary Constitution be repealed. So that King *Edward*, though he had not reserved to himself a Power of Visitation in this and other such Places, yet the Act it self would have obliged him and his Successors to visit, as often as occasion should require, neither could he so entirely devolve such a Trust as this upon the Mayor, Commonalty and Citizens of *London*, or upon any other Person or Persons whatsoever, as totally to neglect and abandon it himself, which implies not only a Power of visiting at all times, but a necessity of doing it in some particular Cases, to consent that another shall betray that Trust which is committed to me, or to put it wholly out of my power to call him to account for his Violation or Male-Administration of it, being the same thing in the issue and Conclusion, though it go somewhat further about, as if I had actually and willfully betrayed it in my own Person. If the words had been never so express, never so absolute, without the least shadow of any reserve or exception, by which this *Hospital* was consigned over to the Commonalty and Corporation of *London*. Yet still the King's Power of Visitation had been supposed, because he could not give away the Act of Parliament, nor any Prerogative inherent in the Crown to the diminution of his own rightful Power, or that of his Heirs and Successors in after times, and especially in such a Case as this, where not only a Power was lodged, but a Trust for the good of others was reposed in him, by the Representative Body of the Nation, which includes and draws after it the diffusive, and all this with his own Royal Assent, which though he may give, or not give before the Sanction, yet after it he cannot withdraw it as he pleaseth; which would be to give him a Dispensing Power in the utmost Latitude and Comprehension of it, against the true Meaning and Intention of all Laws, which always design to be observed and obeyed, as well by himself as others, so far as he hath put himself under the Force and Obligation of them.

This is the first Ground, upon which the Reservation in the Grant of King *Edward VI.* to the Mayor and Commonalty of the City of *London* relies; it is an Act of Parliament made in his Father's time, by which he was not only impowered to visit all exempt Places, but it was left with him and his Successors in Trust; and is a Charge which he was bound to look after, as often as any real, or to him so seeming Necessity should require.

The second Ground that justifies and warrants the Reservation is taken from the nature of the Gift it self; every Man that gives or bequeaths any thing to a publick Use must be allowed to do it upon his own Conditions, and with his own Reservations, supposing them to be reasonable or possible in themselves. Without an Act of Parliament any private Donor, may appoint, if he so pleaseth, certain extraordinary Visitors to inspect and examine, as occasion shall require, the Administration of the ordinary Trustees; and much more then may a King do the same, when he hath an Act of Parliament to authorize and defend him in it, in a publick Charity of his own Foundation.

In virtue of this double Authority, and this double Trust derived to him from the Act of Parliament, and from the Grant of King *Edward*, his late Majesty King *Charles II.* did visit the Royal *Hospitals*, belonging to this City, by his Commissioners under the Broad Seal, as the Act of Parliament required he should do; and in this Visitation he displaced several Officers, and several Governors too; and placed others in their stead.

Which things being premised in order to the more clear and faithful Representation of our Case; We presume with all humble Submission to your Lordship, that as to the Visitation in the general considered, there can be no question, as to the Legality of it, it being done in pursuance of a very reasonable and just Proviso in King *Edward's* Grant, and by Commissioners under the Broad Seal of *England*, as the Act of Parliament required, all the question is, whether there were at that time any just Ground, any reasonable or sufficient Cause of Visitation or no, and this, my Lord, is a Question capable of a two-fold Answer.

First,

First, The King is not bound to give an Account of the Reasons why he visits. And Secondly, If he were bound, the Reasons were notorious, and such as in the Judgment of any indifferent Person might abundantly justify a Royal Visitation.

First, The King is not bound to give an Account of the Reasons why he visits, or for the Regulations which he makes as to Officers and Servants belonging to the House, in any such Visitation.

Indeed if the King should go about to alter the Constitution, to imbezzle the Charity, or to convert it to a quite different Use; this would be so plain an Abuse of his Power and Violation of his Trust, as would sufficiently warrant the Mayor and Commonalty and Citizens of *London*, or any others in whom the ordinary Trust and Management was lodged to stand it out against him, and to vindicate their Title by a course of Law, by which the true Meaning and Intention of the Donor would appear from the express words of the Grant, which it would always be easie to produce, and the King, who by the said Grant was made and constituted the Supreme Guardian and Visitor of the Charity bestowed therein, could not possibly with any color or pretence of Right either imbezzle, squander and abuse it to no good Use at all, or convert it to any other Use than what the Founder himself had allotted.

But for the Officers and Servants it is another Case, if the King be bound to give a particular Account, why he turns out such and puts others in their room, then he shall not visit at all, he shall have no Power either to put in or out, even though never so great Abuses be committed, without the Consent of the ordinary Trustees; and till they shall approve of the Reasons of his so doing, which is effectually to take the power of Visitation out of his Hands, and to make the Act of Parliament and the Reservation in King *Edward's* Grant, both of them very vain and insignificant things.

Besides, It is an Opinion which the most Eminent and Learned Lawyers of this Nation have owned and espoused under there respective Hands, and which we are ready to produce, that the Officers and Servants of *St. Thomas Hospital* are not Charter-Officers, but Servants of such a nature, that they may be turned out or put in at pleasure by the Court of Aldermen,

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or the Governors acting under them, even without a Reason, as Masters of Families may do with their hired Servants, or Shop-keepers with their Journeymen, or Merchants with their Factors, with whom they have not contracted for any length of time, but may keep them in their Service or dismiss them from it, as they please themselves.

Now if this be the Power of the ordinary Governors and Trustees themselves, then the King who hath always a Power and Right of Visitation, Paramount and Superior to any that they can pretend to, may much more do the same, and cannot be accountable to any for so doing, any more than, nor indeed so much as the ordinary Feoffees, because he acts by an Authority Superior to theirs, and because the last Appeal, beyond which there is no remedy, is lodged in him.

Let us suppose, if your Lordship pleaseth, what hath already been unquestionably proved, that the King in this business acted not only by virtue of that highly rational and prudent Trust that was reposed in him by the Grant of King Edward, but also by virtue of that very Power which was given him by an Act of Parliament never yet repealed either in whole or in part.

In this Case, my Lord, with your Lordship's good leave, it is very plain, that when upon a Visitation, the King displaceth some Officers and placeth others in their stead; if upon the dissolution of the Commission, which may be done the next moment after the Regulation is made, the ordinary Trustees shall be invested with a power of turning the Tables upon him, of putting out those whom he put in, and putting in those whom he put out, which is our present Case, and it is that wherein the chief Pinch of the Controversie lies; then this Provision in the Act of Parliament is altogether vain; the King's Authority is rendred useless and contemptible, and the Lord Mayor and Commonalty of the City of London are effectually furnished with a Dispensing Power: For he or they that may dispence with one Statute, may do the same by another, and in Consequence by all; they being only so many several Exercises of one and the same absolute and uncontrollable Right; so that this is not only to submit to a Power which we pretend to disclaim, but it is to take the Scepter out of the King's Hands and

and to put it into those of the City, to change the Form of Government from a Monarchy to a Commonwealth, or rather to make the Lord Mayor of London for the time being, to be the King of England in the most absolute and arbitrary Sense. For *dispensare, hoc est, lege solvere is solus potest qui ferendæ abrogandæque legis potestatem habet*, they are the words of Grotius, he only can dispense with a Law that hath a Power of making or annulling it, and the same is the Opinion of *Vasquez, Suarez, Pufendorf*, and others, and of that Right Reverend and Learned Author himself, by whom these Opinions are collected and set down in his admirable Discourse concerning the illegality of the late Ecclesiastical Commission, p. 33. And my Lord Chief Baron *Arkins* in his accurate Enquiry into the Power of Dispensing with Penal Statutes, p. 23, 24. endeavors to prove by several Instances of temporary Dispensations with the Statute of Provisors, and other Statutes, *That the Power of Dispensing with Acts of Parliament is no where else but where the Legislative Power is, and that the Kings (of England) have sometimes accepted it from them in some particular Cases, and for some limited time, and with divers Restrictions, which is a full acknowledgment*, saith he, *that it belongs only to the Legislative Power to dispense with Laws*. And this, my Lord, is plainly the Reason of the thing, for every Law includes an Obligation, otherwise it is no Law because it does not bind, and no Obligation can be taken off, but by a Power either equal or superior to that which made it. Now if the Lord Mayor and Commonalty of the City of London, may not only eject out of the Royal Hospitals those whom the King hath placed there, but also restore those very Men whom he hath discarded, notwithstanding the A& of Parliament gives him a Power without Appeal to visit and redress, that is, it gives him the same power, over the Officers of such Houses, that Masters of Families have over their Domesticks, who may keep their Servants or turn them out of doors without giving a Reason; then is that very Dispensing Power admitted and allowed in the Corporation of London, which is deny'd to the King; and in this particular Instance they do not only barely contend with the Law, but they juggle the King out of his undoubted Prerogative, and unquestionable Right, and bring both Him and the Parliament under their

their Girdle, so that, *Now those eminent Promises do hasten to accomplishment*, as a late Author expresses it, in a Sermon printed to justify and affirm the execrable Murther of King Charles I. *For binding of Kings in chains and Nobles with fetters of Iron; for disobeying of Kings and Parliaments together; such honor have all his Saints.*

But, my Lord, you are always of Council for the King so far at least as not to suffer his Prerogative Royal to be unjustly invaded, and therefore we rest assured that your Lordship will determine nothing, as well for that Reason, as out of a wise and honorable Sense of the great Equity and Justice of our Cause, that shall in its Consequence affect the Government, as it is now happily Establish'd, or in any wise tend to the diminution of their Majesties just and clear Prerogative, or to the Disinherison of the Imperial Crown of this Realm, and that your Lordship will remember that the Declaration of the Lords and Commons Assembled at *Westminster*, which was presented to their present Majesties, the then Prince and Princess of *Orange*, and which in every part of it hath been since confirmed by an Act of Parliament, Entituled, *An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown.* Which said Declaration and Act thereupon ensuing have pronounced all suspending of Laws, and all dispensing with them without consent of Parliament to be illegal: I say, I know your Lordship will consider that the same Authority that deny'd this Power of Dispensing to the King and Queen themselves, upon Experience of the Mischiefs and Calamities it produced in the late unhappy Reign, would much less have granted the same extravagant, inordinate and inconvenient Privilege to Subjects; nay, they would never have thought of it without Indignation and Scorn, and I leave it with your Lordship to determine as you shall see cause, whether the Mayor and Commonalty of *London*'s restoring those to their respective Places, whom the King hath legally ejected, by virtue of a Clause in an express Act of Parliament, vesting him with such a Right, be not a plain Instance of a Dispensing Power, by rendering this Clause altogether insignificant and useless, and whether it be not so much the more criminal for being exercised not by the King, but by Subjects,

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and those not of the first Rank and Quality neither, in contempt both of King and Parliament together?

And, my Lord, I beg leave to propound this further Question to your Lordship, whether the Restitution of the ejected Officers by the Lord Mayor and Court of Aldermen, do destroy and evacuate the King's Right of Visitation or no? For upon Supposition that it doth, they are not only furnished with a Power of suspending Laws, and of dispensing with them, but likewise of abrogating, rescinding and repealing them too, which is to make them every whit as absolute, as the most comprehensive, enlarged, and unconfined notion of Arbitrary Government it self can be. If it doth not, then as they immediately upon the Dissolution of the Commission, which as I have said, may be done the next moment after the Regulation is made, as they may immediately restore those whom the King hath ejected, so may the King the very next minute by a new Commission eject those whom they have restored; and thus there will be a circle of Appeals, and Controversies will be endless, Confusion unavoidable, as long as such a changeable and uncertain State of things shall continue: it is therefore humbly left to your Lordship, whether you think it more reasonable to determine for the King and Queen, and for the Lords and Commons, who have given them this power of visiting and redressing as they shall find cause, or for a few mistaken Men, who, whatever right of Government in ordinary cases they have, yet have none at all in Derogation to the King's Prerogative, and in Opposition to such a particular and special Visitation as is by this Act of Parliament provided for.

All this hath been said, may it please your Lordship, upon occasion of the first Head proposed to be insisted upon, that the King is not bound to give an Account of the Reasons why he visits, and that tho the Ejection of the Gentlemen concerned had been never so Arbitrary, yet it is good in Law; the Law gives the King an Arbitrary and Despotical Power in these Cases, so he do not substitute in the room of those ejected, such other Persons as are not duly qualified by Law, or are otherwise grossly and notoriously incapable of their respective Employments; and this, I hope, it hath been sufficiently proved that he

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may do, to call him to a strict Account for the Reasons and Causes of his Visitation, besides that the Act of Parliament is general and without any reserve, being in effect to take the power of Visitation out of his Hands, for he that cannot visit but when others please, hath no power or right of Visitation that is properly his own.

I come now to the second thing to be insisted upon, supposing the King were accountable for what he did, as in very truth he is not, yet that there are sufficient Reasons to be given.

My Lord, The order of Council referring the Consideration of this Matter to your Lordship, sets forth as a part of the Matter of our Petition, that they that claim against us were ejected by his late Majesty for not being legally qualified, and so they undoubtedly were, if the Act of Parliament of the 25th of that King for preventing of Dangers which may happen from Popish Reculants were a good Law, and were then in full force and virtue, for by that Act it is expressly enjoined, *That all that receive any Salary, Fee, or Wages, by reason of any Patent or Grant from his Majesty, or shall have Command or Place of Trust, from or under his Majesty, or from any of his Majesties Predecessors, or by his or their Authority, or by Authority derived from him or them, shall undergo the Tests, and make the Subscriptions therein mentioned, which it is needless to recite, they are so well known to all that are here present.* Now, my Lord, our Salaries are paid us by virtue of a Grant from their Majesties Royal Predecessor King Edward VI. and by Authority derived from him, as all other Affairs and Matters relating to the House are transacted by, and under the influence of the same Royal Grant, and by Authority derived from it. Nothing therefore can be more plain than that the Officers of this House receiving Wages and Salaries from the King, or at least from his Royal Predecessor King Edward VI. and by Authority derived from him, were obliged by the plain and express Letter of that Act without any remote Consequences, or far-fetched Interpretations to undergo the Tests and Trials of Protestantcy and Loyalty therein enjoined. But a Dissenter cannot take the Oath of Supremacy, which was then enjoined, nor receive the Sacrament according to the manner and usage of the Church of England, then by this Act he is precluded from receiving

receiving any Wages or Salary from the King or from any of his Royal Predecessors, or by his or their Authority, or by Authority derived from him or them; and this upon Examination will be found to have been the Case of most, if not all of those, that were at that time ejected, and if any Man did comply to serve a turn, with these Tests, which I cannot tell that any one Man did, continuing still a Dissenter, and a Separatist from the Church of England, or an half-faced Conformist, and a frequenter of both Communions, as if it were indifferent to him what Religion he was of, as some such there have been; yet this did by no means come up to the Intention of that Act, which the better to discourage and disappoint all Popish Designs, would allow the King to trust or reward none for any Service in his disposal, but such as were hearty and entire Conformists to the Doctrine and Discipline of the Church of England.

Again, all Places within the King's Vocation are by a very natural and easie Interpretation within the King's Pay; for the King is supposed to employ those whom he may eject out of their Employments when he pleaseth, and to pay those whose Salaries he may stop, as well without as with a Reason; it is clear therefore upon this Account also, That these are all Places within the meaning of the Act, and that there was very good Reason for ejecting those Officers who had not qualified themselves according as that Act required.

Furthermore, my Lord, they do not only receive Wages and Salaries from the King, but there is a Trust and a Command committed to them, a Trust as to the Administration of their respective Employments, and an Authority for the Execution of that Trust; for in vain is a Trust committed to any Man whatsoever, who is destitute of Power to see to its Execution; they are the very words of the Act, Or shall have Command in place of Trust from his Majesty, or from any of his Majesties Predecessors, &c. Which words Command and Trust, according to their true import and meaning, must be understood in their utmost Latitude and Extent of Signification, unless there were some other passages in the

Act it self, that laid a particular Restraint and Circumscription upon them. It is but a very small *Command* and place of *Trust*, which an Inferior Officer in the Excise or Customs is possessed of; suppose a Gauger in the Excise, or a Land or Tide-waiter in the Customs, and even Offices inferior to these; and yet these being all of them in the King's Pay have been interpreted to come within the meaning of this Act, and we know what Artifice and what Force was used in a late unfortunate Reign, to make them renounce their Obligation to the Test, and promise to concur to its repeal; and yet these have no Patent or Grant from the King, only they depend upon his verbal appointment, or they are chosen without the King's immediate privy or knowledge by their Superior Officer, and by him or them without any further to do upon any real or pretended Misdemeanor they are discarded; but they receive the King's Pay for their respective Employments, and from this it is that the Obligation to the Test ariseth; and this, if it do not equally, or rather more concern all those that act in the Hospital of St. Thomas Southwark, under the Grant or Letters Patent of King Edward VI. and are paid by an Authority derived from them: Then I must confess to your Lordship and the World, that I have considered of these things a great while, and with a great deal of Seriousness, and with an earnest Desire to find out and discover the Truth to no purpose.

The Act speaks not only of Places of Advantage with Salary or Perquisites, or both belonging to them, but in general of all Trusts reposed by the King, that no Person ought to be admitted into such, but those that will perform the Conditions by this Act required, and this concerns the Governors as well as the Officers and Servants of the House, for they are trusted, though they are not paid. I presume it will be granted on all hands, that a known and open Papist ought not to be a Governor in such an House as this, and why then should a concealed one be allowed, who is certainly much the more dangerous of the two? and how shall we know what any Man is in this Case, unless he perform those Conditions, and undergo those Tests, without which the Law

is not satisfied, but he is a Popish Recusant? It appears therefore as evident as Demonstration it self can make it, that though the King might have ejected either Officers or Governors without giving a Reason, or without being accountable to any for what he did in this Case, yet that what he did was founded upon Reasons the most agreeable to Law and Justice, and the most conducive to the Publick Good of any that could have been thought of or suggested.

It is likewise provided by a Clause in the same Act of Parliament, That any Person who by neglect or refusal to do as the Act requires, shall lose or forfeit any Office, and shall afterwards qualify himself by conforming to the Law, yet he shall not be restored to the Prejudice of any Person, who upon the Lapse or Forfeiture, came into the Possession of his Vacant Place, having qualified himself within the time prefix'd, as the Law requires; so that what firmer Tenure there can be than ours is, I cannot imagine.

It cannot be thought an Injury or a piece of Persecution, when a Man enjoys the liberty of his Conscience, his Person, his Estate, when he is allowed all the just and convenient freedoms of Conversation, together with an undisturbed License of Traffick and Commerce, for him to be shut out of Places of Profit or Trust in the disposal of the State, in which he is like to be troublesom to the Religion Establish'd, and to the Peace of his Country; it being seen by Experience, that all Men in power do naturally use it, and for the most part with an inexcusable warmth and heat for the Interest of that particular Persuasion, which they themselves have espoused. The particular Inconvenience of it in this House appeared, in that when the Dissenting Party had the ascendent in it, they chose no Officers but such as were like themselves, and the Chappel it self, which is the King's Chappel, and immediately subject to his Royal Visitation, was made an illegal Conventicle for three Years together, to his great dishonor, and to the Reproach and Scandal of the Government it self, and for the merit of this among other things, that do highly recommend him to that sort of Men it is, that my Competitor, contrary to all Law and Justice, is abetted in his unrighteous and unreasonable Pretensions against me.

My

My Lord, I am not for any Man's being molested or troubled for his Conscience sake in Matters of mere Opinion; it is not only against my Judgment, but my Temper too; and indeed unless the necessity of the Publick may excuse it, it is a Cruelty, that can never be excused, and for that reason ought never to be practised. I am very well pleased and satisfied with the Toleration which the Parliament have granted, always provided, That the Tolerated Parties be kept out of all Places and Trusts that are of a publick nature, and in the gift and disposal of the State.

The Church of *England* is that Party of Men, which all Parties will acknowledge they can live most happily under, unless they be the Regnant Party themselves; and we have seen so much of the inhuman Cruelties, and more than Draconing Barbarities of a Dissenting Zeal, and such unspeakable Confusions consequent upon it, that the best and wisest of the Dissenters themselves, though upon a Religious account, they could not submit themselves to the Episcopal Government, or comply with the Liturgy and Ceremonies of our Church, yet upon political Reasons they have always declared for supporting the Establishment, as the only means to preserve the Peace and Tranquillity of their Country, and to make us as happy and as great a People, as in our divided Circumstances we can be: But if the Reign of those that are Dissenters from our Church be attended with so many mischiefs, then certainly a mixture of such in Places of Trust and Profit, of Honor or of Power in the State must have its proportionable Inconveniences attending it; and for this reason it is, that in *Holland* where the greatest liberty of Religion is allowed, yet none are paid, none are trusted in any publick Employment by the States, but such as are of the Establish'd Religion: this is largely represented by Sir *William Temple* in his excellent Discourse of the *United Provinces*, and the Reasons of it with very great Judgment and Wisdom are assigned by the *Heer Fell* late Pensionary of *Holland* in his famous Letter to Mr. *James Stewart*, giving an Account of the Sentiments of their present Majesties concerning the Repeal of the Test and the Penal Laws so much talk'd of and endeavor'd in the late King's time.

My

My Lord, I wish with all my Heart, for the sake of our very Adversaries themselves, that nothing else could be alledged against them or any of them, as the Causes of King Charles II. his Visitation, and their Ejection consequent upon it; but that they were not legally qualified; for this is indeed a thing highly to be commended, though a Man may labor under a mistaken Conscience, that he will not however Sacrifice that Conscience to any temporal Gain or Advantage; but there were also other things that lay heavy upon them, we can prove one of them by unquestionable Testimony to have been then, and still to be a Person zealously disaffected to the Government both in Church and State, a personal and profest Enemy to the four last Kings by Name, a great Magnifier of the Commonwealth Form of Government, and a Publick Slanderer even at this time, of the greatest and most useful Personages of this Kingdom.

And I desire it may be considered, that he that would now so fain supplant and eject me, was himself ejected for no other Reason, but because in a Printed Sermon he had publicly owned, asserted and defended the Horrid Murder of King Charles the Martyr. For it is certain, after his Ejection, that by the great Application of his Friends in his behalf, he had been restored again had it not been for this one thing; but this Sermon being shewn, not by me, who knew nothing of it at that time, but by others to Mr. Secretary *Jenkins*, and by him communicated to the King himself, this was the true and the only Reason why he was not restored, he having conformed to the Church of *England* for some time before.

Now, my Lord, it is true, that the Act of Oblivion had forgiven him this Fault; but yet this hinders not but it might be a very good Reason why the King would not retain him in his particular Service: And I do not see how he can be restored, not only without disowning the King's Power of Visitation, but also without a very favorable Aspect upon that execrable Fault, for which he so far incurred his Majesties displeasure, as to be ejected out of his Place.

Indeed if the Man were in any extreme Necessity, there might be some Pity due to his Relief, and if he could prove
any

any legal Property in such a Place as this, God forbid but every Man should enjoy his Right; but he can prove no Title, unless he first prove that the King hath no Right or Power of Visitation, and he is so far from being by his Ejection in a worse Condition than he was before, that he got very considerably by it, for he had a Living, which is a Freehold in Law bestowed upon him, of twice the yearly value, and a Living at such a distance, that the Canons of the Church would not suffer him to enjoy both together, if the *Hospital* were a Cure of Souls, as in Law I must confess it is not; but it is sufficient that it is in Conscience, and he for that Reason, if he had any Conscience, might be ashamed to pretend to both of these Places together. If the *Hospital* had been a Cure of Souls, he would have lost his Title to it, immediately upon his Institution and Induction into the other; and it is strange that so little regard should be had to the Reason of that Law, which was the impossibility of a Man's taking sufficient care of two Places at so great a distance, as that he should be thought a fit Person to be restored, after having been so fairly and so legally ejected by him that had an unquestionable Right to do it; and for a Reason in which all the Royal Family is so sensibly concerned, that he must have very little Respect for the Memory of our past Kings, or for the Persons of our present most Gracious, most Happy, and Auspicious King and Queen, notwithstanding that Crime still bleeding, (like the Blood of the Martyr, which never yet was stanch'd) for which he was ejected, that will pretend to restore and reinstate him again in such Circumstances as these.

And if to all this we add his gross neglect of his Duty, while he officiated in our House, his not burying the Dead, not visiting the Sick, not residing upon or near the Place, his slubbering over even after his Conformity, the Prayers of our Church after an unseemly and ungainly manner, and after all, his getting little or nothing by his being restored, (for he must find a Curate in one place) but only the Satisfaction and Gratification of a causeless Malice, against one that contributed nothing to his Ejection, it will appear

pear as I do humbly hope to your Lordship, that I have not only all the Law, but all the Equity and Fairness in the World on my side; and how much more unconscionable must it then needs be thought, when there are so many things to be said in my behalf, and when I have supplied both for above this year and half, that I should not receive one penny all this while upon the *Hospital Account*: But that this Man should receive the Money I have earned, and which neither he nor any of his Friends dare ever yet pretend to be his due.

My Lord, I have but two things more to add, and I have done, I beg your Lordship's Pardon for detaining you so long, and will be very brief in what remains.

My Lord, that excellent Person, Mr. Serjeant *Pemberton*, in his Opinion given under his Hand upon this very Case of ours, hath these very words which follow; *I conceive that the Court of Aldermen being the Persons who authorised the Governors of this Hospital by their Order, when the Corporation of the City of London was dissolved by the Judgment in the quo Warranto, the Authority of those Governors of the Hospital ceased, and they cannot act again without a new Order or Appointment of the Court of Aldermen, and I conceive the King's (that is, King James's) Proclamation in October 1688, doth not give any Authority to the former Governors of the Hospital to act by the former Authority to them given, by the former Order of the Court of Aldermen, but they ought to be commissioned by a new Order before they act as Governors.*

If then the Governors which were ejected could not be restored without a new Order of the Court of Aldermen, the same must be granted likewise of the Officers too, because they both acted by the same Authority, they were both ejected by the same, and it is the same that must restore them both; and accordingly it must be confessed, my Lord, that they were both of them restored by the Court of Aldermen, commonly so called; but the question is, whether that were a legal Court of Aldermen or no, and to this I answer, that it was not then, in the express Judgment of the Act of Parliament it self, neither is it to this very day;

day; and I am so well persuaded, that this is effectually proved in a Paper lately published, and Entitled, *Considerations upon the Act of Parliament, for reversing the Judgment in a quo Warranto against the City of London*; that when I see that Paper substantially answered, which I do particularly challenge the Defendant's Council to do, I will be content not only to lose my Place and my Arrears, but to suffer any other Punishment or Disgrace, and I hope the Parliament when they meet will not only excuse but justify the Author of it, as well for the clearness and convincingness of the thing it self, as that it tends to vindicate and assert the Honor and Reputation of that August Assembly, and to the Publick Good of the Nation. But let that be as it will, there are several worthy Gentlemen that have put in their Claims as well to the Chair it self, as to their respective Seats in the Court of Aldermen, which during the avoidance of the Charter they relinquish'd. Now if there were nothing else but this to be considered, it is impossible to determine in favor of the Defendants, till it be first determin'd in a judicial way, as it now lies before your Lordship in the *King's-Bench*, or by the Parliament it self, who are the best Expositors of their own Sense and Meaning, whether this be a legal Court of Aldermen or no; for I suppose it will be confess'd on all sides, that without the legality of the Court of Aldermen be first of all admitted, there can be no legal Governors or Officers by their appointment, though we say they would have been illegal though the Court of Aldermen had been never so legal, because they cannot by an inferior and delegated Power reverse the legal Act of the Supreme, and the Act of Parliament confirms none of their Acts, but such as would have been legal, had the Authority been so, and not otherwise, and such as could not without iniquity and inconvenience be repealed, as will appear to any Man who shall peruse it; so that I think upon the whole matter, there never was a more weak and shamefully defenceless Cause from the Creation of the World to this very moment in which I am speaking, nor will be again from this very moment, till the last Trumpet

Trumpet shall Sound, a Resurrection at the Consummation of all things.

The second thing which I intend to speak to, and with which I shall conclude, shall be their Majesties gracious Declaration of the Twenty Thrid of *May* in the Year 1689, and in the First Year of their most glorious and happy Reign, for Encouragement of Officers, Seamen and Mariners employ'd in the present Service: In the last Clause of which it is provided in these Words, *That the Moyety of our Hospitals in England, employed for the Cure of wounded and sick People, be reserved during the time of War at Sea, for such as shall be wounded in the Service of the Navy, as they shall become void from and after the First Day of June next, 1689.*

Where we see not only that their Majesties claim a Propriety in the said Hospitals, by calling them *our Hospitals*; but as such, by virtue of their Proprietary Power, it being of the liberty of Proprietors to do what they will with their own, they appoint that one Moyety thereof should be reserved for the Sick, Maim'd, and Wounded in their particular Service, which without a legal Propriety they could no more do, than by Law they could quarter Soldiers upon private Houses without the consent of the owners: If these Houses be the City's, and not the King's, then the King cannot quarter Soldiers upon them; and much less Maintain and Cure them out of their Revenues without the consent of the City, but this Order asks no leave of the Lord Mayor or Court of Aldermen, or of the Citizens and Commonalty of the City, but relies wholly upon its own Authority, and appoints a Moyety to be reserved, as their Majesties due, whenever they please to claim it, and they might have claimed more if they had so pleased, and may do it as often as occasion shall require; so that all the question is whether this Order be legal or no, for upon Supposition that it is, then the Hospital is the King's and not the City's, otherwise than by way of Trust and Delegation, but yet so as that the King may at all times command to be done therein, so the Intention of the Charity, which was for sick and wounded People be not infringed, whatsoever he thinks

for his Service; that the Lords of the Council were of Opinion it was legal, is plain, because they caused it to be Printed by an Order of the same date, which is Printed together with it; and I dare say, it will be granted to be a much greater Exercise of Regal and Visitatorial Power, to exhaust and spend the whole Revenue of the same, upon Persons of their Majesties particular appointment, than to appoint a few Officers and Tenders to look after them, which is all that we pretend to, the Gross and Substance of those great Charities, being consumed upon the Patients, whose Servants and the King's we are.

Thus, my Lord, I have undertook to defend the Rights and Prerogatives of this Imperial Crown, so far as this *Care* is concerned, against those that at the Hospital Charge, and out of the King's proper Revenue are come hither to defeat and overthrow it; an Attempt so Loyal, that it may deserve to be considered, even though in your Lordship's Judgment I should not have proved all that I pretend to do, which yet I humbly hope I have done. I have made it a part of my Business to evince as well as I could, upon what very just and reasonable Grounds the Regulations in the time of the late King *Charles II.* were made, and that it was not only the Monarchy and the Prerogative, but the Honor and Interest of the Church of *England* that was concerned in them. My Lord, Unity is necessary in all Places for the due Administration and Management of Affairs, but no where more than in such an House as this, where not only the credit of so Magnificent and Princely a Bequest, but even the Lives of the Patients, and the Success of their Cures do more or less depend upon the good understanding of the Governors, and the Officers and Servants, with each other, to say nothing of the peace and comfortable Living of the Officers within the House among themselves.

I am so much of this mind, that though I believe it will be easily granted, that I am no great Friend to the Power of the Dissenters; yet for the good of the House, whatever becomes of me, I had rather see all the Officers Quakers, or Anabaptists, or of any other Tribe belonging to the Separation,

ration, than not all Communicants of the Church of *England*, and without pretending to Prophecy, I can easily foretell, that such a mixture as this will always be inconsistent with the peace of the House, and will be the occasion of endless and remediless Feuds and Animosities among us. The Privy Council, who have referred this business to your Lordship have in effect already determined in our Favor, by ordering their Majesties Declaration of the Twenty Third of *May* above-mentioned to be Printed, which Declaration implies rather a greater Power than we have need of: for our Defence and Protection, and I hope your Lordship will see Reason to follow their Example. My Lord, your Lordship is not only Lord Chief Justice of their Majesties Court of *King's-Bench*, but you have also another Title, you are Lord Chief Justice of *England*; and therefore I shall humbly expostulate with your Lordship, as *Abraham* did with the Judge of all the Earth. *Shall not the Judge of all the Land do right, that be far from thee, to slay the righteous with the wicked, and that the righteous should be as the wicked, to make no distinction betwixt right and wrong, that be far from thee to do after this manner.*

Some Choice Collections out of a SERMON, Entituled, Magistracy, God's Ministry; Or a Rule for the Rulers and Peoples due Correspondence, Preached at the Midsummer Assizes at Abingdon, Anno 1651. By W. Hughes.

THE Stile of the Dedication — To his Excellency the Lord *Cromwell*, General of all the Forces raised by the Parliament of the Commonwealth of *England*.

In the Epistle Dedicatory it self — I am not conscious that this Discourse hath cause to blush save for its Author's Weak-

A Memorial Humbly Presented

Weakness——What think you, Sir, of his and his Discourse's Wickedness too? It seems it is not Crimes will make you blush, only you are sorry to find your self a Bungler in the Trade of Treason; and you blush only for that Reason, because your Pen cannot transcribe the Wickedness of your Heart. There was something of Modesty in this Confession however.

A little after concerning his Patron, he says——Methinks 'tis pity genuine Merit should not have its due reported, when the Picture of it hath even been adored, but that your Thoughts reply in silence, *be whom the Lord Commendeth*, and Works do eccho thereto louder than to need our Words.

'Tis desired that God would lead you in this way even to your Journeys end.

lb. Concerning his Discourse or fardle of Treason, he says——The Subject of it is the ready Road your Honor doth and is to walk in——

lb. It is the suit of many Hearts, that your Honor having now subdued our Enemies, would put on further to make the Godly Friends.

lb. My Lord, I have adventur'd far upon your Favor, it is enough and over for me, (will your Lordship only but excuse me) whilst by this I tell the World, (*take notice World, and remember what he says against another Day*) that as I have been for Christ's Interest and the Commonwealths sometimes under your Command; I am, and ever shall be, my Lord,

Your Honor's Faithful Servant

to be Commanded, W. H.

Out of the Preface to the Reader——'Tis too well known our Body Politick hath been much distempered, and the Grief scarce cured yet: my aim I'm sure is right to heal the Sore, however I hit the mark.——

lb. Former Injustice, (*in the Reign of King Charles I.*) and present Disobedience, (*against prosperous Rebels*) look like Competitors, who should be greatest——That (*former Injustice*) through mercy we are fairly quit of, I wish it were improved to send this (*present Disobedience*) packing after.

lb.

16. How quick it (*Disobedience*) thrives, how far it spreads, and what a Crop it bears, last Harvest told us here at Home, although the righteous, gracious Lord, would have it ripe and rotten together: 'Tis time Men should be wiser now than to *kick against the pricks*, or *labor any longer for the wind* — All this Disobedience he speaks of was the Disobedience of Charles II. and his Malignant Adherents against his Patron Oliver, and the Sovereign Commonwealth of England, at the Battel of Worcester, which is here pointed at, in the Margin, and like a true Prophet, he tells you, it was in vain to contend any longer for that baffled Interest; for that it was but kicking against the pricks, and laboring for the wind; that is, in other words, What a fine King's Chaplain is this Man like to make in his Majesties Royal Hospital of St. Thomas Southwark? King Charles the Second shall never be restored! —

He concludes this worthy Preface with these Words. — Reader, Three of the Famous Monarchies of the World are down; the Miscellany Fourth, sure is setting, make way the Fifth, the Everlasting one may rise upon us. — I could expose his Miscellany Fourth, but this would be *aliud agere*, we are not now interpreting of Prophecies; the Four great Monarchies he speaks of, were the *Babylonian, Medo-Persian, Greek and Roman*, the three first he tells us are gone, and the last crumbled and divided into several and distinct Dynasties is declining, or in other words, Monarchy in England and its Dependences is clearly gone, and he hopes to see it so every where else in a very short time; so that if a Man would give the World to see a Monarch, there should be no such Creature any where to be found, and then *make way the Fifth*, wherein Christ according to this Man's fancy, wherein he wants not the Concurrence of a very ancient, but a very silly, phantastical and senseless Heresie, was to reign upon Earth a thousand Years, and then Mr. H. was like to be a great Man, for the Saints, that is, the Independents were to reign together with him, though Mr. Venner and his Party were of another mind, they thought the Anabaptists were to be the Men. When that time

time comes we shall know more, in the mean while we may see what a special Friend to Monarchy we have of Mr. *H.* and how well qualified this Phanatick is to eat the Bread of Kings. But this was very ill tim'd of Mr. *Hughes* after an Epistle to O. C. who just about this time had a Month's mind to be a Monarch himself, and did actually propose it to his great Confident and Favourite *Whitlock*, as the only means to put an end to those Confusions into which the Commonwealth Principles and Designs had brought them, and *Whitlock* very honestly and very wisely advised him, to restore his lawful King, as the best and only means to put an end to those Confusions, and the most conducive to his own Honor and Safety, but had no thanks for his pains, as the Story is largely represented by himself in his accurate and excellent Memoirs.

As for the Sermon it self, to mention every thing that is obnoxious in it, would be to transcribe it all, therefore I shall set down only two notable Passages, leaving the Reader to make his own Paraphrase upon them: The first relates to the Tryal and Condemnation of King *Charles I.* by the pretended High Court of Justice, which he shows us was not so bad a thing, as some would make it, and by several very pleasant Comparisons endeavors to make the Murder and Deposition of Princes so easie and familiar, that the most squeamish of his Readers may digest it.

Pag. 12, 13. — 3. *Conclus.* — 3. All unusual are not strait unwarrantable Courses, although of late less beaten Paths have been walked in, it follows not that 'tis a Trespasse presently: What will you say to *Phineas* Numb. 25. 6. Psal. 106. 30. who executed judgment upon *Zimri*? The one a Prince, the other but a Priest; and so no Magistrate, nor commissioned from him, that may be clearly found; not that such Instances are always, or in all things imitable: yet, 1. Where Circumstances do concur, the Plea is somewhat strengthened that's drawn after so fair a Copy, that brought God's Approbation to the Author, and *Imprimatu* r to the Action. 2. A *minor*, if a private Man with-
out

out an Hearing, &c. much more a *Supreme Court* by *fair Proceedings*, and yet that Action of the Parliament is not without Precedent neither, and therefore not so uncouth as some do render it: Indeed I look that peevish Spirits will be angry that I tell them so, although the Sober may accept it as a Courtesie; for whose sakes are the following Instances. *Tarquinus Superbus* the Seventh and last King of *Rome* was expell'd, and Monarchy thence together with him. *Nero* the Sixth Emperor of *Rome* was by the Senate declared an Enemy, and condemned to be Whipt to Death. *Wenceslaus* King of *Bohemia*, was deposed by the Electors. *Richard* the Second, King of *England*, was deposed by Parliament, and after Fannish'd in *Pomfret* Castle. *Athaliah* the Queen was slain by the Officers and Captains, 2 Kings 11. *Amaziah* the King, after he forsook the Lord, was Executed, 2 Chron. 25. Which I only mention, to the end Mens Discontents might once be ended. — O rare Hospitaller!

The other Passage is concerning the Ministers that were ejected by those Impudent Fellows the Tryers, for no other fault for the most part, but only being scandalous for Learning, Loyalty, or some other Virtue, and many times all Virtues in Conjunction together; he presseth the vigorous Prosecution of so good and useful a Design, and that you may see he was through-paced, and flinch'd at nothing: he recommends Coblers and Tinkers, and other Lay Divines well furnish'd with Confidence, and well appointed with Lungs to be presented to Livings, in the room of those Bookish, Human-Learning, Prelatical, Antichristian Theologues that were ejected; his words are these, p. 17, 18. 3. Encouraging an able Gospel-Ministry for them, your selves and for the Nation — from first to last ordinarily; there neither hath been nor is any true Conversion, without an outward Ministry; to pass by others, the sad Prophane's on the one hand, Blasphemous Heresies on the other, or gross Ignorance on them both; are Arguments enough and over to convince us of the Necessity of such a Ministry:

nistry : But God forbid my Mouth should open for those whose Mouths are shut. * Dumb Dogs the Scripture calls them, or that I should Pronounce one word in their behalf, whose wicked Conversation doth, ** Silenc'd Clergymen.* as it were, Renounce the Gospel they Profess, *he that labors not, or not to purpose, let him not eat.* I humbly beg that those commissioned † to that purpose would be active and impartial, as to find out, so † *The Tryers.* to turn out such ; that if they do no good, you may prevent them from doing hurt. We are sure there is a Nest of such about the Country, but where the Fault is, whether because the People will not inform or those impowered not reform, I cannot say ; whatever others may suspect ; nor is my purpose to confine this necessarily to a Coat ; our Hearts as *Moses's, would all the Lords people were Prophets ;* so then, that those found worthy—and approved for the Work, be rewarded in it : Christ saith *the Laborer is worthy of his hire,* which is meant of a Gospel Minister, (*whether he be sent or no*) O brave King's Chaplain, O fine Mr. Hughes, Euge, oppo !

ADVER.

ADVERTISEMENT.

THere is Affidavit made before one of their Majesties Justices of the Peace, and one of the Governors of *St. Thomas Hospital*, that Dr. T. the present pretended Physician of that *House* did in *January* 88. a little before the then Prince of *Orange* (our present gracious Sovereign) arriv'd at *London*, or the Government which was then in great Confusion, was settled, declare it as his Sense, speaking of the four last Kings, that they were Rogues and Rascals, and that we had better be govern'd by a Commonwealth, or a State, as in other Countries than by any of them.—And we have other things of a like seditious Nature, that shall be afterwards proved against him, if there be occasion, or if he wants to have them proved.

Quere. Whether such a true *Trojan* to Monarchy as this, be not very fit to receive the King's Pay in a Royal Foundation? And whether he and his Brother Chaplain are not very finely pair'd?

FINIS.